HOUSE OF REPRESENTATIVES

TUESDAY, DECEMBER 20, 1932

The House met at 12 o'clock noon.

The Chaplain, Rev. James Shera Montgomery, D. D., offered the following prayer:

O Spirit Divine, we bow our heads and whisper, "Our Father, forgive our spiritual barrenness." We would follow the gleam that we may achieve the quest of manhood and the strength of a noble life. Heeding our country's call, may we accept the yoke of obedience, even sacrificing self for the contentment and happiness of others. Oh, may we linger long in the path of sacrificial service and complain not. It is real goodness and patriotic devotion that exalt the character of both man and Nation. The remotest citizen of the land has his part to do and bear in the general progress of the Republic. Oh, bring us all under Thy control and in accord with Thy divine purpose. Do not fade from our thoughts, but beckon us to the highest levels of efficiency in the exercise of our duty, and Thou wilt smile on the ground where we walk. In the name of our Savior we pray. Amen.

The Journal of the proceedings of yesterday was read and approved.

MESSAGE FROM THE SENATE

A message from the Senate by Mr. Craven, its principal clerk, announced that the Senate insists upon its amendment to the bill (H. R. 7233) entitled "An act to enable the people of the Philippine Islands to adopt a constitution and form a government for the Philippine Islands, to provide for the independence of the same, and for other purposes," disagreed to by the House; agrees to the conference asked by the House on the disagreeing votes of the two Houses thereon, and appoints Mr. BINGHAM, Mr. JOHNSON, Mr. CUTTING, Mr. PITTMAN, and Mr. HAWES to be the conferees on the part of the Senate.

The message also announced that the Vice President had appointed Mr. NYE and Mr. PITTMAN members of the joint select committee on the part of the Senate as provided for in the act of February 16, 1889, as amended by the act of March 2, 1895, entitled "An act to authorize and provide for the disposition of useless papers in the executive departments," for the disposition of useless papers in the Department of the Interior.

KATHERINE M. BOERNSTEIN

Mr. WARREN. Mr. Speaker, I offer the following privileged resolution from the Committee on Accounts, which I send to the desk and ask to have read.

The Clerk read as follows:

Resolved, That there shall be paid out of the contingent fund of the House, to Katherine M. Boernstein, widow of Sigismond G. Boernstein, late an employee of the House, an amount equal to six months' compensation and an additional amount, not exceeding $238, to defray funeral expenses of the said Sigismond Boernstein.

The SPEAKER. The question is on agreeing to the resolution.

The resolution was agreed to.

ORDER OF BUSINESS: DISPENSING WITH CALENDAR WEDNESDAY—THE BEER BILL

Mr. RAINEY. Mr. Speaker, we want to conclude the general debate upon the beer bill (H. R. 13742) to-day. If the House is willing to stay late this afternoon, we will be able to do so. We want to take up the bill under the 5-minute rule to-morrow and complete the bill to-morrow. That will make it possible to take up the Interior Department appropriation bill we are now considering and finish it Thursday. If we can get through with that on Thursday, we will be able to adjourn on Thursday until the following Tuesday. In order to carry out that program I ask unanimous consent that the business in order on Calendar Wednesday, to-morrow, be dispensed with.

The SPEAKER. The Chair calls the attention of the gentleman from Illinois to the fact that the House could adjourn from Thursday afternoon until Friday and then from Friday until Tuesday. The House can not adjourn for more than three days at a time.

Mr. RAINEY. Yes; I understand; but with the understanding that there will be no business transacted on Friday, we could adjourn from Thursday until Friday, and then from Friday until Tuesday, and everyone could leave who wished to leave on Thursday.

Mr. BLANTON. May I ask whether or not there will be any controversial matters taken up during next week?

Mr. RAINEY. The Agricultural appropriation bill will be taken up next week, and probably take all of the week.

Mr. BLANTON. There will be no matters of controversy? There will be no more liquor bills brought up?

Mr. RAINEY. No. This is the only liquor bill.

The SPEAKER. The gentleman from Illinois asks unanimous consent that general debate on the bill be concluded to-day.

Mr. SNELL. Mr. Speaker, I desire to ask the gentleman from Illinois a question. Does the gentleman expect the final vote on the agricultural appropriation bill will come next week?

Mr. RAINEY. I can not tell. That is always a controverted bill; there is always a lot of debate on the subject. Perhaps the gentleman from Texas [Mr. BUCHANAN] could give the gentleman some information in that respect.

The SPEAKER. The gentleman from Illinois asks unanimous consent that the general debate be limited to to-day, one-half to be controlled by the gentleman from Mississippi [Mr. COLLIER] and one-half by the gentleman from Oregon [Mr. HAWLEY]. Is there objection?

Mr. TARVER. Mr. Speaker, reserving the right to object, the membership of the House has been promised ample opportunity would be afforded them for a discussion of this bill. It is manifestly impossible to have that during only one day's session of the House. Therefore, in the absence of some agreement as to the exact length of time which shall be occupied in general debate, I am constrained to object.

Mr. RAINEY. Mr. Speaker, I ask unanimous consent that the time for general debate be equally divided between the gentleman from Mississippi [Mr. COLLIER] and the gentleman from Oregon [Mr. HAWLEY].

The SPEAKER. The gentleman from Illinois asks unanimous consent that the time for general debate be equally divided between the gentleman from Mississippi and the gentleman from Oregon. Is there objection?

Mr. BLANTON. Mr. Speaker, I reserve the right to object. Such agreement would force Democrats who are against the bill to get their time from the gentleman from Oregon across the aisle. We should be permitted to get our time on our own side of the aisle, from our colleagues, Mr. SANDERS of Texas, or Mr. COOPER of Tennessee, or Mr. RAGON, who have filed minority reports against this bill. I think that the time controlled on each side of the aisle should be divided between those for and against the bill, so that we can get our time from our own side.

The SPEAKER. Is there objection?

Mr. BLANTON. I object.

Mr. HASTINGS. Mr. Speaker, may I inquire of the gentleman from Illinois [Mr. RAINEY] whether, if the Interior Department appropriation bill is not completed on Thursday, it is the understanding that the House will be in session for the consideration of that bill on Friday until it is concluded?

Mr. RAINEY. Yes; that is true.

Mr. Speaker, I ask unanimous consent that Calendar Wednesday business be dispensed with on to-morrow.

The SPEAKER. The gentleman from Illinois asks unanimous consent to dispense with Calendar Wednesday business to-morrow. Is there objection?

There was no objection.

Mr. BANKHEAD. Mr. Speaker, will the gentleman from Illinois yield?

Mr. RAINEY. Yes.

Mr. BANKHEAD. It is apparent, as indicated by the query of the gentleman from Georgia [Mr. TARVER], that in

the absence of some agreement as to the specific time that shall be used to-day in the discussion of this bill, a unanimous-consent agreement can not be obtained. It seems to me that we might be able to reach some agreement on the proposition, particularly in view of the fact that although this is a very important matter and of a highly controversial nature, many Members earnestly desire to get away for the holiday vacation on Thursday.

Is the gentleman from Georgia [Mr. TARVER] willing to make any suggestion about the time we shall sit to-day in general debate that would meet with his approval?

Mr. TARVER. As far as I am concerned, I would be willing to sit here until 12 o'clock to-night, if necessary, to complete the consideration of this matter, but I do not think that the time for general debate should be limited to less than eight hours, four hours to a side.

Mr. RAINEY. We are not trying to limit it to less than eight hours. As long as the House is willing to sit here we are willing to go ahead.

Mr. TARVER. The trouble is the House will get tired about 5 or 6 o'clock; and if the gentleman intends to provide that general debate shall expire with to-day's session, then we are practically assured there will be no fair opportunity for general debate, in the event the gentleman's unanimous-consent request is acceded to.

Mr. RAINEY. There is a general desire on the part of the House to complete it to-day. I do not think there will be any difficulty about continuing the general debate until it is finished.

Mr. TARVER. Would the gentleman be willing to submit a unanimous-consent request that the time for general debate should be limited to eight hours, four hours to the side, and one-half of the time accorded the majority side to be controlled by the gentleman from Texas [Mr. SANDERS], who is the ranking Member submitting a minority report?

Mr. RAINEY. That would be the very proposition to which the gentleman is opposed. We want the debate to continue.

Mr. SNELL. Mr. Speaker, we can not hear the conversation on this side.

The SPEAKER. The suggestion has been made by the gentleman from Georgia that the gentleman from Illinois amend his unanimous-consent request to provide that general debate be limited to eight hours, one-half the time to be controlled by the Democratic side and one-half the time to be controlled by the Republican side, and one-half of the time on the Democratic side to be controlled by the gentleman from Mississippi and the other half by the gentleman from Texas [Mr. SANDERS]. One-half the time on the Republican side to be controlled by the gentleman from Oregon [Mr. HAWLEY], or such other gentleman as may be suggested.

Mr. TARVER. If that suggestion should be accepted, I for one would be willing that the time for general debate be limited to six hours, providing the gentleman from Texas [Mr. SANDERS] is accorded one-half the time on the majority side.

Mr. RAINEY. I make that request, Mr. Speaker.

The SPEAKER. The gentleman from Illinois asks unanimous consent that the time for general debate be limited to six hours, and that one-half of that six hours be controlled by the Democratic side, the other half by the Republican side; that the gentleman from Oregon [Mr. HAWLEY] shall control three hours of the time, and the gentleman from Mississippi [Mr. COLLIER] one and one-half hours, and the gentleman from Texas [Mr. SANDERS] one and one-half hours. Is there objection?

Mr. LAGUARDIA. Reserving the right to object, if the time is going to be divided on the Democratic side between those in favor of the bill and those opposed to the bill, I submit that likewise it should be apportioned on the Republican side.

Mr. SNELL. The gentleman from Oregon [Mr. HAWLEY] is willing to do that.

Mr. HAWLEY. I am willing to give one-half of the time allotted to this side to the gentleman from New Jersey [Mr. BACHARACH].

The SPEAKER. Then the unanimous-consent request, as the Chair understands it, is that general debate be limited to six hours, one and one-half hours to be controlled by the gentleman from Mississippi [Mr. COLLIER], one and one-half hours to be controlled by the gentleman from Texas [Mr. SANDERS], one and one-half hours to be controlled by the gentleman from Oregon [Mr. HAWLEY], and one and one-half hours to be controlled by the gentleman from New Jersey [Mr. BACHARACH]. Is there objection?

Mr. SNELL. Reserving the right to object, do we understand the debate is to be confined to the bill? That was not included in the gentleman's request.

Mr. RAINEY. I amend my unanimous-consent request to include that, Mr. Speaker.

The SPEAKER. The gentleman from Illinois amends his unanimous-consent request to provide that the general debate shall be confined to the bill.

Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. COLLIER. Mr. Speaker, I wish to state that I had already made such an agreement with the gentleman from Texas [Mr. SANDERS], before it was requested.

Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the state of the Union for the consideration of the bill (H. R. 13742) to provide revenue by the taxation of certain nonintoxicating liquors, and for other purposes.

The motion was agreed to.

Accordingly the House resolved itself into the Committee of the Whole House on the state of the Union for the consideration of the bill H. R. 13742, the beer bill, with Mr. BANKHEAD in the chair.

The Clerk read the title of the bill.

Mr. COLLIER. Mr. Chairman, I ask unanimous consent that the first reading of the bill be dispensed with.

The CHAIRMAN. Is there objection to the request of the gentleman from Mississippi?

There was no objection.

Mr. COLLIER. Mr. Chairman, I yield one hour to the gentleman from Illinois [Mr. RAINEY].

Mr. RAINEY. Mr. Chairman, I shall not require one hour. I will ask the chairman to call it to my attention when I have spoken for 10 minutes. I expect to conclude then. I will ask unanimous consent to extend my remarks in the RECORD, and I will finish in 10 minutes.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

Mr. RAINEY. Mr. Chairman, this is the beer bill about which we have heard so much. It is easily understood, and during the brief time I shall address the House I shall simply try to put into the RECORD an explanation of the bill.

Section 1 of the bill fixes the alcoholic content and the tax per barrel. The alcoholic content is fixed at 3.2 per cent by weight, and the tax is fixed at $5 per barrel to contain not more than 31 gallons, and a like rate for fractional parts of a barrel.

While the evidence was conflicting, it showed, in my judgment, that beer containing not more than 3.2 per cent of alcohol by weight, which would be about 4 per cent by volume, is not intoxicating. Prof. Yandell Henderson, of Yale University, probably the greatest authority that we have in the United States on poisons, made the statement before the committee that a glass of beer containing this percentage of alcohol and not more than that, was no more intoxicating than a cigar or a cup of coffee.

Five dollars per barrel the committee is convinced is the maximum revenue rate, and this is the impelling motive which prompts a great many Members to vote for the bill. We are anxious to get revenue, and to get just about as much revenue as we can. It is estimated by Doctor Doran, of the Prohibition Unit, that at the present time 20,000,000 barrels of high-power beer, containing 6 per cent, and even more than that, of alcohol, are sold every year in the United States without the payment of any tax.

If this can be converted into a legitimate source of revenue, even if the consumption were no greater than that, it will yield an enormous amount of revenue.

Beer was first advocated as a beverage in the United States by Thomas Jefferson. On his return from France he recommended beer in the Old Dominion as a beverage which ought to be consumed in preference to the harder liquors then consumed. They did not commence to manufacture beer in the United States until 1842. For 20 years it was manufactured and sold without the payment of a tax.

In 1862 we commenced to tax beer, and it has been taxed since that time at varying amounts per barrel—$1, $2, $3, and finally $6, which is the present tax.

The largest amount of revenue we ever derived from the sale of beer was in 1918, when we collected $120,285,000, but in that year and for the major part of that year the tax was only $3 per barrel. For the balance of that year it was increased until it reached $6 per barrel.

At the present time there are only 16 States in which beer could be sold, and it will require a considerable broadening of the market before we can sell as much as 30,000,000 barrels of beer per year, but our constantly diminishing revenues from every source warn us that we must consider other sources of revenue, and this is the main reason for my position on this bill.

Section 2 of the bill simply expands section 1 so as to complete the text and make possible the alcoholic content of 3.2 per cent per gallon.

Section 3 amends the national prohibition act by providing that beer, ale, and porter can contain 3.2 per cent of alcohol, and defines the term "intoxicating liquor" as used in this particular act.

Section 4 prohibits the sale of beer authorized by this act in such States as do not want it sold there. I am aware of the fact this seems to be inconsistent, because we are proceeding upon the theory that it is not intoxicating; and from that viewpoint, if all States should accept that viewpoint, there is no reason at all for excluding beer from any State, but there are many States which do not accept that position, and this section of the bill is intended to protect those States which do not want even 3.2 per cent beer sold within their borders.

Section 5 amplifies the provisions of the other sections, protects the so-called dry States and the District of Columbia.

Section 6 makes the act applicable to Alaska and Hawaii.

Section 7 provides the penalties.

The bill provides an occupation tax upon brewers of $1,000 a year. The present occupation tax is very small. This will raise a considerable revenue, and it is a guaranty that beer will be manufactured by those larger concerns which will be more disposed to observe the law and not to put into it a higher alcoholic content than the act provides. This is all there is to the bill. The bill takes effect within 30 days after its passage. [Applause.]

Mr. SNELL. Will the gentleman yield for a question?

Mr. RAINEY. I will take one more minute to answer the question of the gentleman from New York.

Mr. SNELL. I read in a New York paper yesterday that the Democratic leadership had said this would be the only opportunity for revenue legislation to balance the Budget at this session. I want to know if the Democratic leadership is correctly quoted in that article?

Mr. RAINEY. The leadership is not correctly reported. It may be necessary to resort to other measures.

Mr. SNELL. The gentleman does not think there would be enough revenue from beer alone, even if it amounted to as much as they expect, to balance the Budget from that measure alone?

Mr. RAINEY. No; but if we get as much as we expect, and accomplish anything like the economies suggested by the President, and if we can merge certain bureaus, it may be possible to carry the matter over for a while until some upward curve in business commences, with short-term borrowing.

Mr. SNELL. But the Democratic platform is just as specific on balancing the Budget as it is on modifying the Volstead Act.

Mr. RAINEY. And the gentleman need not worry about balancing the Budget. We are going to balance the Budget.

Mr. SNELL. And are you going to do that before this session is over?

Mr. RAINEY. I do not know that it can be done before the session is over. The gentleman's party has left us an awful job to do.

Mr. SNELL. I appreciate that; but I wanted to get the gentleman's idea and wanted to know how far you are going in your attempt to do it.

Mr. RAINEY. But you left it to the party which can do it, if any party can. [Laughter and applause.]

Mr. SNELL. You have the opportunity now, and we want to see you do it.

AGRICULTURE

Mr. RAINEY. The evidence shows that a very considerable amount of malt, rice, corn and corn products, hops, sugar and sirup, and other grains will be used in the production of beer.

In 1917 the consumption of malt amounted to nearly 3,000,000,000 pounds. The consumption of rice amounted to over 125,000,000 pounds. The consumption of corn and corn products amounted to over 666,400,000 pounds, or, in other words, about 11,000,000 bushels. Nearly 42,000 pounds of hops were consumed and nearly 116,000 pounds of sugar and sirup. Of other grain, 204,000,000 pounds were used. The consumption diminished as the tax increased in 1919 and 1920 before prohibition.

A large part of the acreage devoted to malting hops in 1918 is now devoted to nonmalting hops, which is used for feed for cattle and hogs. The return of this acreage to malting hops will in some measure assist in the solution of the present difficult agricultural problem.

In 1918 there were over a thousand breweries in the United States producing over 50,000,000 barrels of beer, but the rate of tax was only $3 per barrel. If these breweries were again operating, it would be a conservative estimate to say that the yield from a $5 tax would be considerably over $200,000,000 a year. Of course, it is too much to expect that this bill, if it is adopted, would yield that much in revenue in the immediate future, but the revenue might reach for the first year half that much.

INDUCED BUSINESS

The money spent for production and distribution of beer will give employment to many men. It is estimated that in its retail distribution and in the breweries in a short time after the adoption of this bill 300,000 men will be employed and a very large number of men will be indirectly employed on account of the revival of the brewing industry in other industries. There will be a demand for bottles, hoops, crowns, barrels, cases, glassware, refrigerating equipment, and so forth. It is estimated that car loadings will be increased to a very large degree. According to statements made in the hearings by a representative of the committee on industrial rehabilitation, three men would be put to work in other lines of business for each man put to work directly in the brewing industry and in the distribution of the product.

At the present time there are only 134 breweries in the United States equipped to make beer. It is estimated that within the next year, if this bill passes, there will be a capital expenditure of $360,000,000 in the building of new plants and for the enlargement, rehabilitation, and modernization of existing plants, and the expenditure of this much money in a year would be desirable, indeed.

It is an economic mistake to say that money spent for beer would simply mean that it could not be spent for other things and that money spent for beer is absolutely wasted. As a matter of fact the consumption of a barrel of beer would mean that the Government would get in a revenue of $5. The producer of malt would get something out of it. The producer of corn, rice, and sugar would also get his share. The manufacturer of barrels would get his profit,

which in turn would be largely expended in wages for employees, and his employees would spend the wages they get for foodstuffs and clothing. The same thing is true of the industry which produces the iron hoops used on barrels. Of course, this would be an imperceptible amount if limited to one barrel; but if 40,000,000 barrels were produced, or even 30,000,000 barrels, the effect upon the resumption of business would be immediately apparent.

The industry promises capital returns, not only from the industry itself but from related industries, and we certainly need something at the present time to encourage capital investments in industry, and this would mean the consumption of more raw material, and all this is reflected in wages paid.

This is a period of diminishing returns. The revenues of our Government from every possible source now employed have fallen off at an enormous rate and the revenues from capital invested in industry are falling off. If we are to have a return of more prosperous times, an upward curve of business, we must commence somewhere. An opportunity to reinstate an important business is provided in this bill.

In Sweden they have been able to study the liquor problem more thoroughly than in any other nation, and more dispassionately, and in Sweden 3.2 beer by weight is not considered in any degree intoxicating. It is sold there just as we now sell here beer containing less than one-half of 1 per cent by volume.

It is useless, of course, to talk about getting any appreciable revenue from the sale of beer with an alcoholic content not to exceed one-half of 1 per cent by volume. The revenue is negligible, but beer which will contain as much alcoholic content as provided in this bill will be a palatable beverage which will be in demand and which will produce revenue.

Mr. HAWLEY. Mr. Chairman, I yield 20 minutes to the gentleman from New York [Mr. CROWTHER].

Mr. CROWTHER. Mr. Chairman, it appears that even in the discussion of this proposed beer bill, which is presumably a nonpartisan measure, there has already crept in a little evidence of partisan politics. I hope, however, not to make any such reference in my discussion, because I do not think it plays any particular part in this discussion except there is some degree of responsibility, of course, resting upon the Democratic Members on my right because of their platform declaration.

Let us see what the purpose of this legislation is. The presumption is that it is for the production of revenue. Of course, the Ways and Means Committee would not have jurisdiction if the question of revenue were not involved in this bill.

The amount of revenue, according to the evidence given at the hearings, is just anybody's guess. It runs all the way from $125,000,000 with the tax at $5 a barrel, as suggested in the evidence given by the Secretary of the Treasury, up to over $500,000,000, with a tax of $7.50, as suggested by the gentleman from New York [Mr. O'CONNOR]. Probably, somewhere between these two figures is the mean average that would be produced as revenue. Nobody knows exactly what it is. Nobody knows how quickly the brewers of this country are going to get back to what they consider normal production. Mr. Huber, of the Busch Co., testified that the brewers of the country could probably immediately produce about 15,000,000 barrels; that this is their capacity at this time. He did not refer to his own brewery, but the associated breweries. This would mean $75,000,000 of revenue at $5 a barrel.

May I say, in passing, that the report on the Canadian revenue last year showed that the revenue from their malt liquors—which, of course, would be beer and ale and porter—was in the neighborhood of $5,000,000. I should say they have about one-twelfth of our population, or one-fourteenth, and upon that basis, of course, the figures would be very disappointing as a matter of revenue, and would bring us very much less revenue than has been suggested.

Mr. CELLER. Will the gentleman yield at that point?

Mr. CROWTHER. Yes.

Mr. CELLER. Would not the gentleman say that the population of Canada is entirely different from our population with respect to its beer-drinking qualities? We have a vast German population and a vast Italian population. The foreign element among us is quite heavy, and it is inclined to beer drinking, so the comparison is rather unfair.

Mr. CROWTHER. I am going to grant that to the gentleman, because on this question of liquor taste I know he is an authority. [Laughter.]

During the recent campaign, newspaper editorials and many candidates out on the hustings claimed that there would be produced not less than $1,000,000,000 of revenue. I have seen and heard that statement more than a dozen times—that it would bring a billion dollars of revenue, and that that is the amount we were losing annually by not legalizing beer. They did not mean this to apply to the whole liquor situation, involving whisky, brandy, and so forth, but the statement was we were losing $1,000,000,000 through not legalizing beer. Some allowance should be made for statements uttered in the heat of a campaign. There were a great many statements and promises made by my genial Democratic colleagues on this side of the House, and their leaders, that will require inspiration and will produce perspiration in the process of fulfillment. Of one fact we can be very certain, and that is if the balancing of the Budget is dependent upon the revenue coming from this beer bill, the Budget is going to be out of balance for a long time. It is going to be lopsided for a good many months.

Regarding the alcoholic content of a nonintoxicating beverage, there is as great a difference of opinion as there is regarding the amount of revenue this so-called nonintoxicating beverage will produce.

The bill carries 3.2 per cent by weight, which the professors and the brewers tell us is equal to 4 per cent by volume, and testimony by competent witnesses is to the effect that such a beverage is intoxicating in fact. However, a very distinguished Member of this House testified before the committee that he had imbibed four pints of that kind of liquid before breakfast without any evidence of distress or any evidence of intoxication. This experiment was made in a foreign country that he was visiting. I refer to the gentleman from Illinois [Mr. WILLIAM E. HULL] who testified before the committee. Other witnesses testified that a beverage containing 2 per cent or less of alcohol is intoxicating.

So there you are, gentlemen of the jury. You can read the evidence and draw your own conclusions.

We had a witness who made this statement relating to the alcoholic content and its effect. Dr. William M. Hess, on page 532 of the hearings:

> A man is intoxicated when his higher intellectual functions are slowed down. We found out that 2 per cent plus of alcohol will slow down the average persons' reaction time two-fifths of a second. That means if you are driving an automobile 40 to 60 miles an hour your decision to stop will be retarded two-fifths of a second and you will glide on 20 to 40 feet; that is enough to send you either to heaven or hell, wherever you book yourself for.

[Laughter.]

Now, I am not competent to discuss the constitutional questions that are involved, but let me say here that I do not think it is constitutional to pass a beer bill while the eighteenth amendment is in the Constitution. [Applause.] I can not see how it can be done.

Another angle of the beer project is that it is supposed to be of material aid to the farmer. Once more the farmer is the subject of legislative solicitude, and the method suggested is to legalize beer.

According to the chart and figures presented to the committee, the brewers and distillers of the country in their combined use of grain use only three-quarters of 1 per cent of the grain products of this country.

This beer plan is bound to be a great disappointment to the farmers of the country. It will be disappointing to all those who have heralded it as a perfect method of balancing the Budget. I venture the opinion that it will be the most

disappointing project that ever was embarked upon for that purpose.

I find no provision in the bill for the exclusive use of American products.

Mr. O'CONNOR. Will the gentleman yield?

Mr. CROWTHER. I yield.

Mr. O'CONNOR. That was in the last bill, and I propose to offer an amendment to this bill including it.

Mr. CROWTHER. Now, in that relation, my good friend from Illinois [Mr. RAINEY], who is diametrically opposed to me on the policy of the tariff, asked a witness, John H. Mauff (see p. 222 of the hearings):

Mr. RAINEY. Do you export any malting barley?
Mr. MAUFF. There is practically no barley being exported.
Mr. RAINEY. Is there any being imported?
Mr. MAUFF. There is malt being imported into this country from Canada and Czechoslovakia. I am glad you mentioned that. For many, many years our maltsters exported malt to Canada. Overnight Canada put a prohibitive tax on our malt, and in the last year or 18 months in the eastern part of the United States they have received over 3,000,000 bushels of Canada malt, because we haven't got the proper protection.
Mr. HILL. From what section of Canada does this malt come?
Mr. MAUFF. Mostly the eastern part—Ontario. There was a time when Canada raised barley so superior to anything we could produce that the brewers in the Eastern States advertised their beers made out of Canadian barley. We then brought about the cultivation of this Odabrooker and other varieties of malted barley. That has all gone back into the feed class. We have now got to get the seed and see that the farmers grow that barley and assure them of a sufficient premium to justify it.

So that without efficient tariff protection imported malt and hops may add to the farmers' troubles.

A good many questions were asked by members of the committee of those who were interested in the bill, and those who were against the bill, as to what their ideas were of distribution. No concrete propositions were submitted to the committee. I doubt very much whether we would have the right to write into this legislation a method of distribution to be complied with by the States. I do not see how we could do it, and in connection with this subject I quote from a very distinguished columnist who had this paragraph in his column the other morning. He said:

In his opinion one of the great difficulties regarding this legislation was to lead the speakeasy out without meeting the saloon coming in.

Mr. VINSON of Kentucky. Mr. Chairman, will the gentleman yield?

Mr. CROWTHER. Yes.

Mr. VINSON of Kentucky. Has the gentleman thought of requiring the issuance of a permit to those who offer for sale the beverages contained in this bill, with the proviso that they should not be sold in a place of the character commonly known as a saloon, or a place where hard liquor or liquor with alcoholic content in excess of that contained in the bill is sold?

Mr. CROWTHER. My idea is that the only premise upon which this bill is being given consideration and upon which its sponsors hope to pass it is that the declaration that we have made proves 4 per cent alcoholic content a nonintoxicating beverage. If it is nonintoxicating, I do not see why it should not be sold just as freely as soda water or ginger-ale or Coca-Cola or any other product, and in every public place where such liquid refreshments might be sold. It seems to me that the minute you begin to supervise and license and control it in any way, you are leading right up to the saloon. The minute you commence to describe by limitation the environment, and so forth, under which this beverage may be sold, you are leading directly to the saloon.

Mr. VINSON of Kentucky. According to my view of the situation, it was the hard liquor or the distilled liquor that brought to the saloon the attitude and feeling of the country against it. At the proper time I am going to offer an amendment that will endeavor to carry into effect the suggestion I have made.

Mr. O'CONNOR of New York. Mr. Chairman, will the gentleman yield?

Mr. CROWTHER. Yes.

Mr. O'CONNOR of New York. Of course, there is no difficulty in restricting the sale, if people want to do so. Under our taxing power we clearly can restrict it. The outstanding case in that respect is the matter of oleomargarine. That is restricted as to its sale and described as to its wrapper. We have the power to do it. Of course, I am against its restriction.

Mr. CELLER. Do we not in this bill regulate distribution somewhat by taxing the retail distributor of the beer $20 as a license fee?

Mr. CROWTHER. That is in the present law, as I understand it.

Mr. CELLER. Do not we, therefore, control it in that sense?

Mr. CROWTHER. We do, but I do not see why it should be controlled, if it is a nonintoxicating beverage.

Ladies and gentlemen of the House, as long as the eighteenth amendment is a part of the Constitution, which I took an oath to support and defend, I can not see my way clear to support this bill. I regret that Members on my side of the House who favored a resubmission of the eighteenth amendment with proper safeguards for the States that desired to remain dry, and express provisions to prevent the return of the saloon, had no opportunity to vote for such a measure.

If the repeal resolution had been brought in under a rule permitting one amendment, then an amendment similar to what is known as the Glass bill would have been presented, and Members on both sides of the House would have had an opportunity to keep faith with their people and vote for it. But that is ancient history; it is water over the dam. The distinguished Speaker of the House was adamant. His mind was closed on the subject of bringing it in in any other way than under suspension of the rules.

Gentlemen of the House, it is almost unbelievable that in the midst of national distress, with unemployment and its consequent hunger and sorrow stalking the land, this great House of Representatives at once devoted itself to an attempt to repeal a constitutional amendment under a suspension of the rules with 40 minutes of debate, and is now trying to pass the buck to the Supreme Court by declaring that 4 per cent beer is a nonintoxicating beverage. In the years to come our action will be characterized as the very quintessence of legislative stupidity. [Applause.]

I yield back the remainder of my time.

Mr. COLLIER. Mr. Chairman, I yield seven minutes to the gentleman from New York [Mr. CULLEN].

Mr. CULLEN. Mr. Chairman, ladies and gentlemen of the House. On this bill I am as diametrically opposed to the position taken by my colleague from New York [Mr. CROWTHER] as he is diametrically opposed to the attitude of the gentleman from Illinois [Mr. RAINEY], on the question of the tariff.

For 12 long years this fair country of ours has endured under the tremendous handicap of living a veritable lie, a great national falsehood. The strain upon the economic and moral fabric of America has been terrific. Strand after strand snaps and our once so-beautiful pattern faces ruin. The design becomes contorted, grotesque.

Now, the Government coffers are empty, the country is in the grip of a serious economic depression, the ranks of the army of the unemployed swell to alarming proportions, the national aspect is one to bring a measure of consternation to the heart of the most skeptical. True, we have a lot of political ostriches in the high places who bury their heads in the sands of petty politics and personal gain and refuse to see the storm clouds on the horizon.

The American people are already staggering under heavy tax burdens, and additional tax upon the necessities of life is little short of national suicide. Why not first administer a tonic in the form of beer?

Legalized nonintoxicating beer, as provided in the bill before us, would not only materially reduce the national unemployment distress and revive business conditions in general, but would put back into our hungry National Treasury many millions of sorely needed dollars and would make further taxation of the necessities of life needless. Beer is a food and a tonic; it is an aid to health and if it satisfies, to some

extent, the public thirst while helping to relieve our present economic troubles, what real American can deny his country this boon? I am of the firm conviction that the passage of this bill will do more to promote a return to true temperance than anything that has been accomplished since the passage of the eighteenth amendment.

The hardest thing for some people to do is to admit that they are wrong. It takes courage to admit we are wrong. It takes a man with a divine soul and a brave heart to say, "I thought I was right, but I feel now that I was in error." If ever this country is to completely recover from the mire of corruption which prevails to-day, we have got to return to the constitutional freedom our forefathers fought so bitterly to give to us.

The bill before the House is a well-balanced bill, one which has received very close study and attention by the Ways and Means Committee.

In its many deliberations during the recent hearings the committee had the advice and expert-opinion testimony of brewing experts and distinguished men of the medical profession, who testified as to the harmlessness of 3.2 beer. In fact, it was generally conceded that such a drink was nonintoxicating.

I trust that the membership of both parties will appreciate the thought given by the committee to the various proposals placed before them. I am proud to say that the committee made a most exhaustive study of all proposals, and the bill before you represents the committee's conclusions on the subject.

The $5 a barrel tax recommended by the committee is, in my opinion, most sound and equitable. According to a statement made by Mr. Mills, Secretary of the Treasury, this tax is estimated to yield between $125,000,000 and $150,000,000 in revenue the first year. A higher tax will reduce the revenue to the Government and will serve only to increase the cost of the beer. It will deny the 5-cent beer to the workingman.

It was interesting to note the general feeling of various business men as to how the passage of this bill would affect business. It would lend a powerful stimulus to industries concerned with the packing and distribution of beer. It will also most certainly be a boon to the agricultural interests. It is taken for granted that the growing of hops and barley to be used in beer will show a vast increase. According to representatives of this industry, it had sunk to its lowest level since the enactment of prohibition.

Mr. Matthew Woll, vice president of the American Federation of Labor, made the statement that the legalization of beer will mean a million additional jobs.

In conclusion, I wish to reiterate that the bill is fundamentally sound, and I trust that no amendments will be offered in order that the passage of the bill will not be endangered. The country spoke in no uncertain terms with regards to this question, and it is our duty to respond to the people's wishes. [Applause.]

Apropos of that, probably you all noticed in the press this morning that Will Rogers made a great speech when he said, "The people passed on beer, but Congress is debating whether they will or not." I thought that was very significant. It was a very good speech and a whole speech, so far as that is concerned, from an individual outside of the membership of this House.

Mr. Chairman, I hold in my hand a letter from the Federal Grand Jury Association, which I want to insert in the RECORD at this point. I ask unanimous consent, Mr. Chairman, to insert this letter in the RECORD.

The CHAIRMAN. Is there objection to the request of the gentleman from New York?

There was no objection.

The letter referred to is as follows:

DECEMBER 14, 1932.

To the PRESIDENT AND THE CONGRESS OF THE UNITED STATES:
(Attention of Hon. THOMAS H. CULLEN, Representative from New York.)

This association, organized in December, 1927, at the instance of the then United States attorney for the southern district of New York, is composed of men qualified and accepted for service on the Federal grand jury.

One of its objects is to promote respect for law. Our members believe that laws written into or kept in force upon the statute books of our country which do not commend themselves to the moral sense of the great body of right-thinking men and women, or which for this and other reasons are unenforceable or are generally regarded as unnecessary and burdensome, do not tend toward obedience to or respect for law in general but have a contrary effect.

We recognize and at all times in every suitable way impress upon our members their duty to find true bills strictly in accord with the evidence presented on violations of the law as it now exists. A large majority of our members as a result of their experience when serving on grand juries and their observations as citizens have been increasingly convinced that the effect of the eighteenth amendment and the Volstead Enforcement Act upon respect and observance of law by our citizens is particularly unfortunate and injurious; however, it has been considered unwise for this association to take action or record its opinion on any question related to this matter unless and until there should be some pronounced and general expression on the part of the citizens of this country and of both political parties in favor of some change or modification of Federal laws having to do with the control of the manufacture and sale of alcoholic liquor.

This association does not even now consider itself at liberty to make specific recommendations on this subject, but it does urge upon the President and the Congress of the United States that whatever change or modification of law or constitutional amendment bearing upon this matter be decided upon should be done immediately and without unnecessary delay to the end that respect for law shall be increased and that other important interests of the people of this country may receive due consideration at this time.

W. S. QUIGLEY,
President of the Association.
ARTHUR S. COX, *Chairman,*
ALFRED P. PERKINS,
MOREN T. HARE,
Committee for the Association.

Mr. CULLEN. So I say to you, Mr. Chairman, and my colleagues of the House, let us not hesitate. Let us pass this bill and show the people of the country at least that we as Representatives of theirs in Congress are responding to their call. [Applause.]

The CHAIRMAN. The time of the gentleman from New York has expired.

Mr. BACHARACH. Mr. Chairman, I yield 10 minutes to the gentleman from Illinois [Mr. WILLIAM E. HULL].

Mr. WILLIAM E. HULL. Mr. Chairman, prior to this time I have on several occasions addressed the House of Representatives in behalf of this legislation. It is with much gratification that I now realize not only that a favorable development of sentiment has occurred in the United States but that many of my colleagues have changed their views upon this very important domestic issue.

I have great respect for Representatives in Congress who upon full consideration and study change their opinions on public questions. I have equal respect for Members who conscientiously adhere to their views and are willing to stand on those views even in a minority. I, therefore, address the House with infinite respect for the opinions of my colleagues, whether they agree or not with the opinion which I have held upon this subject.

Having long held the position that a light beer—and certainly one containing not more than 3.2 per cent of alcohol by weight—is nonintoxicating, I have previously urged upon Congress the importance of modifying the national prohibition act in such a way as to allow the manufacture and sale of such beer in those States or neighborhoods within States where such beer would be conformable to the local law. Other men have disagreed with this conclusion, but I am much gratified now to discover that an overwhelming majority of the Ways and Means Committee have reported this bill to the House of Representatives which authorizes the manufacture of a nonintoxicating beer containing 3.2 per cent of alcohol by weight. I am further much gratified by the fact that two of the most eminent authorities in the United States—Dr. Yandell Henderson, the great physiologist, of Yale University, and Dr. Alfred Stengel, the great physician and internist of the University of Pennsylvania—independently called by the Ways and Means Committee, expressed their scientific and professional opinions to the effect that light beer is nonintoxicating, and that a beer containing not more than 3.2 per cent of alcohol by weight can not be deemed to be intoxicating or in violation of the eighteenth amendment.

The independent and convincing opinions of these two scientists on this fact settle for me any question of doubt, did I entertain doubt, and I urgently recommend to the Members of this House that during the course of this debate they examine the testimony of these two distinguished men in order that they likewise may be reassured as to the character of this proposed beer if they already entertain the idea that it is nonintoxicating. No Member of this House, unless he can disregard completely these scientific statements of fact, need have any concern under his oath to support the Constitution with respect to the prohibition against intoxicating liquors found in the eighteenth amendment.

I now ask leave to put in the record the testimony of these authorities, simple in form but absolutely convincing in its simplicity, on this scientific question.

So far as the tax assessment upon this proposed beer is concerned, I believe that the committee has shown its wisdom in laying the tax at $5 per barrel. The tax should not be so high as to invite evasion and thus continue illicit brewing with all of its attendant evils.

Mr. Chairman, do not think for a moment that the illicit brewing of beer in this country during the past 10 years has not been one of the greatest problems this country has ever faced. It is the beer racket that has been responsible for the organization of the big racketeer who has been able, through the profits made in beer, to finance all other crimes in which he has been engaged, such as robbing banks, and so forth.

I want to quote now a statement that I made before the Senate committee, January 9, 1932:

> Sherman Rogers, who has been writing a series of articles in the Red Book and other magazines, has stated that Al Capone told him he controlled the beer market in Chicago and vicinity, and that he did not allow any of it to be sold by middlemen or jobbers for less than $55 per barrel. He said that he billed it to these people at $22 and made the beer in his own breweries. He said that he provided protection against Federal and State interference, and it was up to the middleman to take care of the local officials and politicians. Capone claimed that he and his jobbing customers each netted $5 a barrel on the transaction and that the rest of the $55 was paid out in graft.

Only by the development of a reputable brewing trade engaged in the manufacture of this nonintoxicating beer at a fair price can the evils created by illicit brewing be stamped out in the great centers of population in the United States. Economically, it can be destroyed.

I have no doubt that the future regulation of the manufacture and sale of beer will be seriously guarded by the brewers themselves. Their plants have been idle for 13 years, and the lesson they have learned will without doubt compel them, through good business judgment and ethics, to inaugurate drastic rules and regulations of their own for the sale and distribution of legalized beer. The Government regulations should encourage the legitimate brewer in such a laudable undertaking.

So much for the merits of this question as a matter of changing the national prohibition act and as a matter of taxation.

I foresee vast benefits to the United States over the next five years growing out of the reinauguration of the brewing industry on lines made possible by this measure. I do not purpose elaborating on this aspect further than to say that the views expressed by one witness alone would convince me on this phase of the proposition.

Mr. Joseph Dilworth, of Pittsburgh, Pa., testified before the Ways and Means Committee. The majority report refers to the statement of this witness. He appeared on behalf of the committee on industrial rehabilitation, a subcommittee of the central banking industrial committee organized at a conference held at the White House last August. The business of his subcommittee is to secure capital plant investment in the United States. While industrial production for consumption is only 20 per cent off, manufacture of plant equipment is off 80 per cent. This committee has organized in all of the Federal reserve districts of the United States, but as yet has reports from only four cities, to wit, St. Louis, Milwaukee, Pittsburgh, and New York. These reports show, however, according to Mr. Dilworth, from $40,000,000 to $50,000,000 immediate investment for capital expenditures in brewery plants in those four districts if this act is passed.

Mr. Dilworth said that this expenditure—and I use his words—

> Would give enormous impetus to this effort we are working on.

As the Ways and Means Committee further mentions in its report, the employment of one man in the capital goods industry means that three men are put to work in other lines of business at the same time. In other words, the employment of one man in manufacturing machinery, plant, equipment, building structures, and so forth, for the brewery industry would mean the employment of three other men in other lines of industry. Mr. Dilworth said that if four cities only had plans for proposed expenditures lying on the desks of brewery executives amounting to $40,000,000 or $50,000,000, for the country as a whole it would mean many times that amount.

The committee had before it Mr. Matthew Woll, of the American Federation of Labor, urging insistently that this legislation be passed as a benefit to the workmen.

The committee also had before it Mr. James A. Emory, counsel for the National Association of Manufacturers, urging in behalf of his association that this legislation be passed for the benefit of industry. When those representing labor and when those representing capital agree on a measure before this Congress, I can only say that Congress should not disagree with these two long-time adversaries. Here labor and capital are united in advocacy of legislation. This is the first time in my experience as a Member of this House when such an agreement has been so heartily made between capital and labor.

I could call your attention to the testimony of the witnesses from different industries begging of Congress the passage of this act. Members will find that testimony in the ample hearings of the committee. For instance, a representative of the heavy-truck industry testified that 5,000 heavy trucks of the kind used by breweries would be sold during the first year. This he testified was equal to the entire purchase by the country of heavy trucks in all other lines. Railway traffic men testified that this means $100,000,000 of annual freight revenue to the railroads.

I beg of the Members of this House that they will examine the testimony of the industrial witnesses and see what a sweep of the Nation's industry is affected directly and indirectly in the rehabilitation of the brewing industry; what thousands of men will be employed in the mere establishment of this business. Such reemployment and rehabilitation will occur during the darkest hours of industrial and commercial depression. Can any Member of this House fairly say that unless completely convinced on constitutional grounds and that against the testimony of great scientists he can justly deny to the industries and the workmen of this country this positively assured relief?

As to the effect upon the agriculture of our country, the development and the continuation of this industry will mean that more than a bushel of barley, corn, rice, and hops will be purchased and consumed in the manufacture of each barrel of beer.

In my opinion, Mr. Chairman, the rapid growth of this industry will within a short time consume annually 100,000,000 bushels of farm products, which is one-third of all the grain that goes to the primary market and that this additional consumption of grain will, at the lowest estimate, advance the price of all grains on an average of 15 cents a bushel.

The only substantial way we may help the farmer is to find additional markets for his products. By passing this measure you legalize the manufacture of a wholesome, healthful, nonintoxicating beverage made entirely from the products of the American farm which will take the place of so-called soft drinks of no health value and which are made entirely from products raised in Cuba and other tropical countries. This is real, sure enough relief.

Mr. Chairman, by passing this single piece of legislation you will, in one fell swoop, help the farmer by giving him a substantial additional market for his product. You benefit labor by putting literally thousands of unemployed men to work. You restore industry by putting factories now idle in operation. You will also do more to check the growth of crime that is rapidly becoming a menace to the whole United States, because when you take the profit out of the liquor business, the millionaire bootlegger becomes helpless under the law, and the whole criminal structure collapses. [Applause.]

Mr. Chairman, I ask unanimous consent to revise and extend my remarks and to insert the testimony of Doctor Henderson, of Yale University, and Dr. Alfred Stengel, of the University of Pennsylvania.

The CHAIRMAN. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The matter referred to is as follows:

STATEMENT OF PROF. YANDELL HENDERSON, NEW HAVEN, CONN.

Mr. HENDERSON. I will try to return your courtesy, Mr. Chairman, and abbreviate my statement as much as I can.

I wish to testify as an expert on poisons, and particularly on that class of poisons that includes alcohol. I have for many years past made a special study of volatile poisons, and alcohol is a volatile poison. From 1912 to 1922 I was consulting physiologist to the United States Bureau of Mines and developed methods of protection against mine gases, especially carbon monoxide. During the war I was chairman of the Medical Research Board of the War Gas Investigations that developed into the Chemical Warfare Service of the Army. I was in charge of all tests of poisonous gases, and of the liquids from which war gases are volatilized.

Since the war I have devoted much study to the poisonous or intoxicating substances that occur in industry. Many of these substances have effects like those of alcohol. In regard to every substance of this sort the problem for the expert is not merely to determine what is the physiological effect of the substance. What industry wants to know is how much is intoxicating, and what is the amount below which intoxication does not occur. It is to problems of this sort that I have particularly devoted attention.

I show the committee a book entitled "Noxious Gases," of which I am one of the authors, which is the standard work in this field. In regard to every substance dealt with in this book an attempt is made to state how much will kill, how much can be tolerated for a time, and how little is virtually without ill effects—that is, nonintoxicating. The substance that the public has heard the most about is carbon monoxide. A standard for carbon monoxide was required before the vehicular tunnels under the Hudson River at New York were built. I was called on to develop the standard for the ventilation of those tunnels; and the standard that I established has been adopted all over the world as affording safety against carbon monoxide intoxication. We need a similar standard against alcoholic intoxication.

I propose to testify to your committee in regard to alcohol in exactly the same way that I would in regard to standards for any one of the many new poisonous substances that chemistry is introducing into industry. But I must emphasize that none of these standards sets simply the absolute amount of the substance regardless of conditions. We must always take into account such conditions as the dilution of the intoxicant in the air or in water, the duration of time that a man is exposed to it and absorbs it, and the condition of the man, whether at rest or working, fasting, or after a meal.

Problems of this sort are not theoretical or abstract scientific questions; they are very practical problems. They deal not with what might intoxicate but with those amounts that under actual conditions are in fact intoxicating. Accordingly, I testified before a committee of the United States Senate here last January that 4 per cent beer should not be regarded and should not be defined by law as intoxicating. I have before me the report of that hearing before the subcommittee on manufactures, giving the testimony on Senate bills 426 and 2473. In my testimony I assumed that beer is to be drunk as beer is generally drunk. If, on the contrary, a man on rising in the morning were to drink a quart or two quarts of 4 per cent beer before breakfast, as a man could for experimental purposes, there is perfectly good scientific evidence that his speed of reaction and his mental and physical activity during the morning would be appreciably diminished.

On the other hand, if a man who is tired at the end of a day's work, and who is worried by anxiety over his business, drinks the same amount of beer with and after his dinner, he is not appreciably impaired for anything that a man ordinarily has to do in the evening. Instead he will enjoy a peace of mind which will contribute to a good night's rest, and which in this respect is helpful for the next day's work.

He needs a cup of coffee in the morning at breakfast to stimulate him and wake him up. It is often equally advantageous for a man who is tired and anxious after a hard day's work to take such a sedative as light beer with or after his dinner to help restore his peace of mind and sociability. A 4 per cent beer contains 3.2 per cent of alcohol by weight. It is a light beer. A beer containing appreciably less alcohol than 3.2 per cent by weight is not palatable. In Denmark a beer of 3.5 per cent by weight is called "temperance beer," and it is properly so called. Some of the Danish and English beer containing 6 or 8 per cent of alcohol may be drunk in such quantities as to be definitely intoxicating. But 4 per cent beer is so dilute as to be virtually nonintoxicating. It would require a considerable effort to drink enough to get drunk on it. If no alcoholic beverage other than 4 per cent beer were known the alcohol problem would be no more serious than the problem of tobacco.

If we keep such practical considerations in mind and consider alcoholic beverages as they are actually used, I believe that there should be no difficulty in defining standards of what is intoxicating and what is not. There is not only a clear line but a broad separation between the two principal classes of alcoholic beverages. One of these classes is that of distilled spirits including whisky, rum, gin, brandy, and crude alcohol. Their alcoholic content runs up toward 50 per cent, so high that like all proof spirits they will burn if set on fire. Beer will extinguish a fire. All the members of this class are highly intoxicating. The other class is composed of those beverages which are merely fermented. This class is composed of light beer and natural wines. It is my opinion that the wisest public policy would be in general to recognize that these two classes are so different that the first should be defined as intoxicating and the second, with some qualifications and restrictions, should be defined as nonintoxicating.

If we are ever to approach a solution of the alcohol problem, that solution must be based on reality; and the fundamental reality is the clear and sharp distinction between those beverages that are highly intoxicating and those that, as used by our people, are virtually nonintoxicating. It was the failure to make this distinction that produced the fearful evils under the licensed saloon system. It is the failure to make this distinction also that has produced the equally great failure of prohibition. Unless we make this distinction in the future, we shall certainly have back the saloon, or the bootlegger, speakeasy, and racketeer, or perhaps all of these evils together.

What is intoxication? Every dictionary that I have consulted defines intoxication as involving two ideas; one is poisoning, the other drunkenness.

Webster's Dictionary gives this definition: "Intoxicate. To poison, to make drunk, to inebriate, to excite or stupify by strong drink or by a narcotic substance"; and as examples of "intoxicating agents" Webster's Collegiate Dictionary gives "alcohol and opium." The Century Dictionary derives the word "intoxicate" from the Latin "intoxicare" to poison. It defines intoxication as "(1) poisoning, and (2) the act of inebriating; drunkenness; the state produced by drinking too much of an alcoholic liquid, or by the use of opium, hashish, or the like." The same dictionary defines poison as "(1) a drink, a draft, a potion; and (2) any substance which, introduced into the living organism directly, tends to destroy the life or impair the health of the organism."

As an illustration, it quotes a sentence from Emerson, which includes tobacco, coffee, alcohol, hashish, prussic acid, and strychnine.

In the light of these definitions alcohol in those beverages which induce drunkenness and intoxication is classed with morphine, hashish, and cocaine and other narcotic drugs. This is in accord with general experience; for the most destructive poisons that act in modern society are those alcoholic beverages that do induce intoxication. The only other substances that compare with the stronger alcoholic beverages in this respect are the narcotic alkaloids, particularly morphine and heroin and cocaine. When we learn to control the intoxicating beverages, that is, the various forms of distilled spirits, along the same general lines that the United States Government now controls opium and cocaine and other narcotics, we shall approach a solution of the problem of alcoholic intoxication.

Those who wish to keep the eighteenth amendment in the Constitution and the Volstead Act in its present form claim and fear that the legalization of light beer will bring back the saloon. There is good ground for this fear. In my opinion, the saloon will certainly come back in an aggravated form unless we make a distinction between spirits and beer and unless the Federal Government controls spirits along somewhat the same lines that it now controls narcotics.

What is a saloon? It is not merely a room with a brass rail and a swinging door. The essential feature of the saloon is that in it both nonintoxicating beer and highly intoxicating spirits can be sold and dispensed over the same bar. Under such conditions the drinking of light beer leads easily and often to the drinking of highly intoxicating spirits.

Spirits are as intoxicating as morphine. On the other hand, a glass of beer is less intoxicating than a cigar. But suppose that the same law applied to narcotic drugs as to tobacco, and that every tobacco shop offered its customers the choice of tobacco or opium, a cigar or a grain of morphine. The certain result would be thousands of morphine addicts. Yet that is essentially the sort of arrangement that the saloon provides. Alcoholic drunkenness and morphine addiction are, from the medical and social standpoints, equally great evils. They are the two most destructive drug habits of which we have any experience.

The point is that, if nonintoxicating beer and natural wines are to be legalized safely, the highly intoxicating distilled spirits must be subjected to a totally different type of control from anything that we have had in the past. The failure of the eighteenth amendment as interpreted in the Volstead Act is due mainly to

the failure to make this distinction. Prohibition enforcement has largely suppressed consumption of the virtually nonintoxicating beverages; but the bootlegger has supplied an ample volume of highly intoxicating distilled spirits.

The distinction between the intoxicating and the nonintoxicating beverage is entirely practicable. In California, according to press reports, a referendum at the recent election was passed by a majority of 470,000 votes that as soon as the eighteenth amendment is repealed the sale of beer and light wines with meals in restaurants shall be legal, but that spirits shall not be sold for consumption on the premises. In Sweden under the Bratt system essentially this arrangement has been adopted, but with the important addition that before a man can buy spirits he must obtain a license such as we have to get before we can drive an automobile. In addition, under the Bratt system no one, even with a license, is allowed to buy more than about 1 liter of spirits per week. If he abuses the privilege, his license to obtain spirits is taken away from him.

In Germany the people derive more social pleasure from alcoholic beverages with less harm to the individual or to the community than in any other country. There is no pleasanter or more harmless way to spend a summer evening than to sit in a Munich beer garden, eat roast goose, listen to a good brass band, and drink a liter or two of the light Munich beer. The German beer garden is always a restaurant, never a saloon. There are often a couple of thousand people in such a garden and not one case of drunkenness. It has long been the custom of the Germans to treat beer as essentially a food and to treat spirits as intoxicants; and German laws embody and enforce this custom.

I have here three volumes of German laws and regulations. One deals only with beer. It is devoted wholly to questions of taxation. German beer is taxed on the basis of the amount of malt used in its manufacture, which comes to the same thing as a tax on the alcoholic content. Its purity and wholesomeness are regulated essentially as foods are regulated. But I find no reference whatever to any part that beer may play in alcoholism.

On the other hand, here is a volume dealing with spirits and the monopoly of the sale of spirits established expressly for the purpose of controlling and diminishing the evils of alcoholism. It is highly significant that beer is not mentioned so far as I can find anywhere in this volume as contributory to alcoholism.

The third volume deals with licenses to sell alcoholic beverages and provides for higher rates and much more stringent conditions for spirits than for beer and for wine.

To avoid misunderstanding, let me sum up in a few clear-cut statements:

Beer of less than 3 per cent alcohol is not palatable. Beer of 6 per cent or more alcohol may be distinctly intoxicating if drunk in large amounts. Beer of about 4 per cent is not appreciably more intoxicating than an equal volume of coffee. The dilution of the alcohol in 4 per cent beer is such as virtually to prevent the drinking of a sufficient amount to induce a condition that can properly be defined as intoxication.

Wine is drunk so little in this country that it is not very important how it is treated by law. Although a man could get intoxicated on wine of 10 per cent alcohol by volume, or 8 per cent by weight, wine of this strength is so much less intoxicating than cocktails, whisky, and other forms of distilled spirits that it would be wise public policy after repeal of the eighteenth amendment to class natural wines with beer as virtually nonintoxicating. The experience of wine-drinking peoples, such as the French and Italians, shows little intoxication from wine. If we could lead our young men, and our young women particularly, to substitute wine for cocktails, the gain for temperance would be enormous. The cocktail habit is a form of drug addiction.

Distilled spirits are narcotic drugs, and their use should be controlled along somewhat the same lines as morphine and cocaine. The control, to be effective, must be maintained by the Federal Government.

Beer of 4 per cent and wine of 10 per cent should be sold in restaurants licensed under State laws. But the sale of spirits in restaurants should be prohibited by Federal law. Bottled beer and wines should be sold in licensed grocery stores, but the sale of spirits in groceries prohibited. Distilled spirits should be sold only in drug stores licensed under Federal law in such States as do not prohibit spirits by State law; not more than 1 pint bottle to be sold at one time and only to responsible citizens who have obtained a license to buy and consume spirits.

Unless the alcohol problem is in future to be handled along some such lines as these, based on realities, the third experiment we are about to make will almost certainly be as great a failure as our two previous experiments with the saloon under the old license system and the bootlegger under prohibition.

May I take about two minutes more?

The CHAIRMAN. Proceed.

Mr. HENDERSON. I have reconsidered, in preparing for this hearing, the scientific evidence with which I was already quite familiar, and for that purpose I have used this volume, Alcohol and Human Efficiency, which I have brought with me. I have also used a volume by my colleague, Professor Miles, which is the most careful study that has ever been made.

I have not taken your time with extensive details of scientific evidence, but I believe that it would be conceded by everyone who has studied the question, that the dilution of alcohol enormously decreases the effect. Twenty-five cubic centimeters of alcohol diluted merely with an additional 25 cubic centimeters of water, are two to three times as intoxicating as if that alcohol is diluted in half a liter of water. I have here a liter flask; if there is any question as to what I am talking about, it is measured on that.

Mr. RAGON. Make that statement again.

Mr. HENDERSON. Dilution greatly reduces the effects of alcohol. I will put that in concrete form. The amount of alcohol in two cocktails, drunk on an empty stomach, has a far greater effect than two or three times as much alcohol in a very dilute beer, drunk under the conditions under which beer is drunk. That is generally with a meal; that is, dilution decreases the effects. That is true of all poisons. Strychnine, for instance, is a convulsive poison; it causes convulsions and death, but it is very commonly used in minute amount in cathartic pills and is a useful and effective drug. Morphine and codein are narcotic poisons, but used in small amounts they are not only harmless but useful.

I could give you many illustrations from industry. Take tetraethyl lead. Tetraethyl lead is a terrible poison. Diluted to the extent it is in gasoline, as ethyl gasoline, there has not yet, so far as I am aware, been a single case of demonstrated poisoning. The dilution makes not only a quantitative, but an absolutely qualitative difference.

The figure that is generally given and accepted as that below which there is no physiological effect is when there are five ten-thousandths of alcohol in the body; that is, for a 70-kilo man, when there are less than 35 or 40 cubic centimeters of alcohol in his body. One liter of 4 per cent beer, if a man could pour it right straight into his body, or into his blood at the most rapid possible absorption, would be below the amount at which there would be any effect at all. The threshold, as we call it, at which there begin to be alcoholic effects is generally taken at 1 to 1,000, or 0.1 per cent. That would be the equivalent of twice that much [indicating], if it could be taken into the blood, not merely into the stomach.

The absorption of alcohol in high concentration may be extremely rapid, because it is taken up directly from the stomach into the blood. The absorption of dilute alcohol is comparatively slow, because it goes on down into the intestines and is absorbed as food is absorbed, that is, slowly.

I would point out that spirits are very commonly taken in the form of cocktails and are generally drunk on an empty stomach; and highballs and drinks of that sort are taken between meals, whereas beer and wine, and we have to take this into consideration, are generally taken with or after meals. I don't think I have ever seen anyone sit down and drink two of these liters of beer on an empty stomach, but I have seen many men drink more than that amount of alcohol in the form of cocktails before dinner and then try to drive a car home. And in my judgment their reactions and coordinations are, on scientific evidence, sufficiently impaired to be defined as intoxicated.

The rate at which alcohol is burned in the body is about 10 cubic centimeters per hour, so that if the absorption is spread over a considerable time the amount in the body at any one time is appreciably decreased. There is also some excretion through the breath and through the urine.

Now I come to the question of what we should consider as intoxicating. In a strictly medical sense the principal poisonous effects of alcohol are cirrhosis of the liver, gastritis, delirium tremens, and coma or complete drunkenness.

The old toper gets cirrhosis of the liver. That is a disease that is well recognized, proved, and admitted by all medical testimony to be frequently induced by spirits. It occurs occasionally in people who do not use alcohol at all; but the whole evidence is that it is not induced, practically can not be induced, by a light beer. It is very doubtful even that it can be produced by the habitual use of wine, as the French use it, so that this result of intoxication, in the toxicological sense, applies to spirits and is excluded with the light beverages.

The second most important injury from intoxication is gastritis; that is, chronic inflammation of the stomach. I have seen, 50 years ago, when I lived in Kentucky and knew a good many drunks, an old gentleman who would have a bottle of cream by his plate, and everything that he ate was coated with that cream. He had burnt the lining of his stomach out with Bourbon whisky. You can't do that with an alcoholic beverage well below 20 per cent. I am not advocating the figure of 20 per cent on any other grounds, but gastritis is not induced by drinks in which the alcohol falls below 20 per cent. It is caused by undiluted whisky.

The third principal pathological effect of alcoholic intoxication is delirium tremens, and all medical evidence is conclusive that the constant use of spirits, probably in about the amount of a quart, or liter, or 1,000 cubic centimeters of whisky per day, leads to delirium tremens. But the drinking of light beer and wine practically never does.

A quart of whisky may induce coma. As many quarts of light beer as a man can drink will not. On these grounds I suggest that the Congress, as rapidly as possible, should recognize the necessity for a really practical definition of what is intoxicating. When that is done there will be, I think, comparatively little difficulty in recognizing what is nonintoxicating.

I thank you.

STATEMENT OF DR. ALFRED STENGEL, UNIVERSITY OF PENNSYLVANIA, PHILADELPHIA, PA.

Doctor STENGEL. Mr. Chairman and gentlemen, I was not familiar with the method of your procedure, and I have no brief to offer, but I am presenting my views regarding that part of the subject under your consideration which I have some reason to

have knowledge of, the question of the nonintoxicating qualities of beverages and the other question as to the effect of the eighteenth amendment and the Volstead Act on the present-day situation. I base my information regarding these two questions, particularly the first one, on an experience of over 40 years as a practicing physician, a physician to three of the largest hospitals in Philadelphia; a term of several years in charge of the alcoholic ward of the City Hospital of Philadelphia, and a lifelong acquaintance with beer drinking through my having been a student of medicine in various countries of Europe that are familiarly known as the beer-drinking countries—Germany, Austria, and England.

I also beg to submit that an interest in industrial medicine during a number of years past has given me a certain familiarity with conditions that require consideration in this matter of beer drinking.

The question of what constitutes a nonintoxicating beverage is, of course, a difficult one to answer; and immediately there is a certain confusion thrown into the matter by the statement of those who are in opposition to any percentage of alcoholic beverage, by saying "they contain alcohol, and is not alcohol a poison? Is not alcohol a narcotic?" Alcohol is not a poison, and it is not a narcotic until you get above a certain percentage; and it is not a poison to a human being if you get above that percentage but have it not absorbed into the blood stream.

The question of determining whether an alcoholic beverage of a certain strength is intoxicating in fact or not can be approached in two ways for solution. One of these ways is the way of the scientist who establishes by refined experimentation the precise alcoholic content of the blood stream, of the blood at a given moment, with or without the manifestations of intoxication, and then he tries to deduce from that how much alcohol or what strength of an alcoholic beverage would have to be swallowed in order to put that percentage of alcohol into the blood stream at a certain given time. Now, this is filled with so many intangibles that it is a very hard matter to solve.

In the first place, it depends a good deal on how alcohol is consumed, whether rapidly or slowly. It depends on whether the stomach contains food at the time or not. It depends, of course, very largely upon the strength or the content of the alcohol in the beverage. It also depends on the rapidity with which alcohol is burned or eliminated from the system. Taken slowly, alcohol may be eliminated from the system almost as rapidly as it is taken. That would have to be very slow. But there is a considerable elimination going on all the time that alcohol is being consumed, if it is consumed slowly.

This method of approach, this scientific method of approach, does not appeal to me particularly, nor does it fall so well within the range of my personal experience. I have a great deal more reason to speak on the basis of what I have observed of the drinking of alcohol and the people who have been consistent alcohol drinkers. In the entire range of my experience, I have never seen a person, a beer drinker, who had developed either the brain effects, what we call "alcoholic psychosis," or "alcoholic neuritis," or alcoholic disease of the liver.

Some years ago, speaking particularly of the nervous effect of alcohol in a discussion with the late Dr. Francis Dercum, of Philadelphia, a very eminent nerve specialist, he and I were comparing notes, and I said to him: "Dercum, have you ever seen a case of alcoholic psychosis or alcoholic neuritis from beer drinking?" He said: "Never." And that is my experience. I have never seen in the alcoholic wards of the Philadelphia hospital among the alcoholics, who were so abundant there at one time—I do not know the conditions to-day, but I suspect they are just about as abundant now—not one of them that was merely a beer drinker. I have seen statements of the dire effects of beer drinking, as indicated by certain statistics. Well, most of us disregard statistics largely, but with regard to those statements, I would say I do not believe them. All the beer drinkers that I have seen, who have had any of the dire effect of alcohol, have been people who were taking a very plentiful amount of hard liquor on the side, and I think most of us from intelligent, common-sense observation would be of that opinion, too.

So that, so far as direct observation of people who have been consistent beer drinkers is concerned, my experience is that beer is not an alcoholic beverage of such strength as to be regarded as intoxicating. When we come to attempt a definition of "intoxicating," perhaps that should be left to the Congress and not to anyone else, for I do not know anyone that has yet given a definition that everybody else would agree to, but we usually mean, of course, by "intoxication," by "alcoholic intoxication," the lack of coordination of muscular power and disturbance of cerebral action or brain. I have never seen such effects as that from beer drinking. There have been individuals and the records of various investigations give accounts of those who have swallowed inordinate quantities of beer and who have brought upon themselves certain results, but I would submit that the swallowing of an inordinate quantity of water would also bring about unfavorable effects. The effects of gluttony are not to be measured by the particular content of what was swallowed but by the amount and the stress that is put upon the human system by such acts. That is not beer drinking.

When we are considering the question of an alcoholic beverage nonintoxicating in fact, I think we must have regard for the average individual using a beverage in the average, ordinary sort of way. By those exceptions I would indicate certain things of a very definite sort. There are people with idiosyncrasies; there are people who can not eat strawberries or the white of eggs without becoming poisoned. There are doubtless people who can not drink even a small amount of alcohol without showing bad effects. The confirmed alcoholic is usually a psychopathic, not always perhaps but usually, and some of such individuals perhaps might, from the drinking of ginger ale or from one of these beverages that contain a very small amount of alcohol, get certain effects. We must observe that drinking buttermilk, or eating baker's bread, or drinking some of these soft drinks, so-called—that we are always getting a small amount of alcohol; but no one in his senses, I think, would call those intoxicating beverages; neither do I think that one-half of 1 per cent is a reasonable, proper, or sensible figure. When it comes to an exact figure, I think we should take a leaf out of the book of experience and say that the kind of beer that people have been drinking without harm to themselves, as I have observed over 40 years, a beer which contains a little over 3 per cent by weight of alcohol, is a nonintoxicating beverage. I have not the slightest doubt of that.

That is substantially, Mr. Chairman, what I had to say to you, unless there is something you may wish to ask me.

Mr. SANDERS of Texas. Mr. Chairman, I yield to myself 10 minutes. Mr. Chairman, I ask unanimous consent to revise and extend my remarks.

The CHAIRMAN. Without objection, it is so ordered. There was no objection.

Mr. SANDERS of Texas. Mr. Chairman, I am not a fanatic on this subject. As a member of the Committee on Ways and Means, I heard and read all of the testimony that was submitted to that committee on this question. I personally tried to approach it in a judicial way. After hearing that testimony, I, together with two other members of the committee, filed a minority report, which is very short and is as follows:

MINORITY VIEWS

We have heard and read all of the testimony before the Ways and Means Committee relating to the proposed legislation on beer. Taking all of this testimony as a whole and duly considering same, we are of the opinion that the proposed bill is violative of the Constitution of the United States which in this regard reads as follows:

"After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territories subject to the jurisdiction thereof for beverage purposes is hereby prohibited."

As Members of Congress we took the following oath:

"I do solemnly swear that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

Therefore we can not, under our oath, support this legislation.

We further submit that the proposed bill is not only in violation of the Constitution of the United States but of the Democratic platform, which calls for the "sale of beer and other beverages of such alcoholic content as is permissible under the Constitution." The above quotation from the platform shows that it was not the intent of those framing the platform to declare for legislation which would be violative of the Constitution.

The very clear and definite proof before the Ways and Means Committee during the extended hearings on this bill shows conclusively that beer of alcoholic content of 3.2, which means beer of 4 per cent alcohol by volume, is intoxicating in fact and is the same type which was generally produced and sold prior to the Volstead Act. The sale of such beer because of its alcoholic content is not permissible under the Constitution.

HEARTSILL RAGON.
MORGAN G. SANDERS.
JERE COOPER.

In filing that minority report I did not and do not now impugn the motives of any Member of this House. I take it that each and every Member of this House, both ladies and gentlemen, in approaching this question is trying to serve and carry out the wishes of their constituents, and that they are just as honest and sincere as I am. Therefore, I do not question the motives of anybody.

I have already stated that, based upon the hearings, I can not support this legislation. I am going to take the little time allotted to me to read to you some extracts from the public press because I feel that the membership of this House would be glad to know what the reaction is among the people in this country.

In the first place, I wish to quote from "Bugs" Baer, in a recent issue of a paper, in which he heads it as follows:

12-YEAR BATTLE WINS ONLY FOAM

Congress is going to be busier than feathers in a windstorm. It is going to put beer over this week.

It will be the 3.2 brand. Palatable, nonintoxicating, nourishing, quenching, and harmless.

That means the wets have argued 12 years for nothing.

The Nation, a magazine published at 20 Veasey Street, New York City, a wet publication, in its issue of December 21, 1932, made the statement that it is in favor of the repeal of the eighteenth amendment. It also made the following statement:

Would it be wise to legalize the sale of beer and wine before the eighteenth amendment is repealed? We feel that it would not. We believe it would be a serious mistake for Congress to enact the Collier bill or any similar measure, even for the sake of the revenue it might produce, before adequate and conclusive consideration can be given to the liquor problem as a whole. To attack this problem piecemeal, as Congress is doing, will simply add to the difficulty of arriving at a proper solution and may serve in the end to defeat the repeal movement.

Let us suppose that the sale of beer is made lawful before the eighteenth amendment is done away with. What will be the most probable consequences of that act? In the first place, it will not have the slightest effect on the evils now existing. Legal beer will lessen very little, if at all, the present demand for hard liquor. The speakeasies we shall still have with us, and the bootleggers and racketeers as well. There can be little doubt that the latter will seek forcibly to invade the lawful beer trade. Indeed, the brewery interests have already informed Government officials in Washington that if the sale of beer is legalized, steps must be taken at the same time to protect them from the racketeers.

Mr. CELLER. Will the gentleman yield?

Mr. SANDERS of Texas. I yield.

Mr. CELLER. Did the gentleman vote for the repeal of the eighteenth amendment?

Mr. SANDERS of Texas. Did I?

Mr. CELLER. Yes.

Mr. SANDERS of Texas. Does the gentleman mean in this session of Congress?

Mr. CELLER. Yes.

Mr. SANDERS of Texas. I was not here, being detained on account of sickness and death in my family.

Mr. BRITTEN. Will the gentleman yield?

Mr. SANDERS of Texas. I yield.

Mr. BRITTEN. The argument which the gentleman has just read from the Nation was evidently conveyed to the House with the view of leading the House to believe the gentleman was in favor of repealing the eighteenth amendment. The gentleman now states to the House that he would have voted against repeal of the eighteenth amendment; so his argument from the Nation falls flat, does it not?

Mr. SANDERS of Texas. No. I think the gentleman does not understand what I have been saying, but I do not have the time to repeat it for the gentleman's benefit. I never did cross myself on any proposition; and if people can not understand me, I am not responsible.

Mr. Chairman, I do not know the character of the publication—the Washington Post. I never thought a great deal of it, but this is what that paper says in its issue of the 18th instant:

As a tax measure, the beer bill is poor legislation.

I will say that if the Members will read the testimony of the Secretary of the Treasury before our committee, they will find he did not place a very high estimate upon the revenues that would be produced.

Reading further from the Washington Post of the same issue:

The beer bill contains no prohibition against the saloon, as it is held that the beer to be manufactured is not intoxicating. Yet the committee insists that the beer will be so "palatable" that a revenue of $300,000,000 will be derived from it. One statement or the other is false.

One statement or the other is false.

That is the Washington Post saying it. Then again it says in the same editorial:

The alcohol in 4 per cent beer is so diluted—

The editorial is commenting here now on the majority report, and in that comment it quotes this from the majority report—

The alcohol in 4 per cent beer is so diluted that it would require considerable effort on the part of an average person to drink enough to become drunk.

That is what they said in their editorial. Then the Star says:

This is all true. But is there any evidence that thousands of persons will not be glad to expend the "considerable effort" necessary to become drunk on beer? If, by expending considerable effort, they become drunk on beer, is beer intoxicating in fact?

Then the Star, referring to that portion of the majority report that beer would probably be taken in limited quantities with food, says:

Is there any basis for the assumption that "beer is to be drunk * * * in limited quantities with food"? Is not the weight of the evidence, drawn from common knowledge regarding the condition before prohibition, exactly to the contrary?

I know it is, and you know it is.

When the saloons were selling beer, did the patrons of the saloons consume it only in limited quantities and with food?

You know they did not. The Washington Star says they did not. This is what the Star says in conclusion:

This beer bill permits the return of the beer saloon. People will get drunk in those saloons on 4 per cent beer. That is the truth—and it can not be dodged.

Mr. LANKFORD of Virginia. Mr. Chairman, will the gentleman yield?

Mr. SANDERS of Texas. I yield.

Mr. LANKFORD of Virginia. I expect the question that is troubling me is troubling many Members, and that is whether 4 per cent beer is in fact intoxicating. If it is not, I am perfectly willing to support the bill. If it is, I can not support it.

Can we not settle this very difficult question by getting Dr. Calver, or somebody, to fix up a concoction of 4 per cent alcoholic content and let us test it for ourselves? [Laughter.]

Some say it is, and some say it is not. Let us find out.

Mr. SANDERS of Texas. I am speaking of the testimony that was adduced before the committee. All of the reports show that this contains alcohol 4 per cent by volume, and that is really the old-time beer, and a man as old as my friend there is, if he stops to think, would know that they used to get drunk on that kind of beer. [Applause.]

The Washington Post, in its issue of December 19, editorially states:

Every step that the House takes to legalize beer before repealing the eighteenth amendment leads into further difficulty.

It then goes on to discuss the Collier bill, and mentions the fact that beer would be legal in only 14 States. Analyzing the bill as a whole, the Post takes the position that the bill would lead to a hopeless confusion, and says:

The result of such legalistic confusion would be that any and all beer would be sold openly without regard to its alcoholic contents.

Then the Post asks the pertinent question:

Why should Congress protect the dry States from importation of 3.2 per cent beer, if that beverage is not intoxicating? * * * Why not let it pour in upon the dry States and let them do as they please about it?

I wish that someone would answer that proposition.

Commenting further, the Post adds:

The attempt to set up barriers against it at the borders of dry States makes ridiculous the whole attempt to restore alcoholic beverages under the eighteenth amendment. Having found that the repeal horse was balky, the committee is trying to make the beer cart lead the way. It should not be surprised if the result is a failure.

The severe penalties now in the Volstead law against the unlawful manufacture of liquor are adopted in this bill. If this beer is nonintoxicating, then is not Congress doing an injustice to impose upon the manufacturer of these beverages the harsh provisions in the Volstead law? Why impose harsh penalties, if the beer is nonintoxicating? Has innocence in ancient, medieval, or modern history ever been so jealously guarded? The bill further provides that licenses may be revoked for failure to obey the law. If this bill is not in violation of law, then why should this severe penalty

be imposed? Permits can not be issued for the manufacture of beer in dry States under this bill. If the beer is not intoxicating, why should not permits be issued? Under this bill the beer called for can not be shipped into dry States. If the beer is nonintoxicating, what is the harm of shipping it into dry States? This bill provides that all seizures and forfeitures may be prosecuted under the Volstead law. If this beer is nonintoxicating, why should its proponents desire to bring it under the harsh provisions of the Volstead law? Under preprohibition law the license fee for breweries was $50, if the brewer made less than 500 barrels per year. If the brewer made more than 500 barrels per year, it was $100. Under this bill the license fee for brewers is $1,000. Does it not seem that we are dealing harshly with the breweries in taxing them $1,000 for making this nonintoxicating beverage? Under this bill beer may be sold in or from bottles, casks, barrels, kegs, or other containers, but must be labeled and sealed as provided by the Commissioner of Alcohol. Why that provision, if the beer is harmless and nonintoxicating? Before engaging in business the manufacturer must qualify "as a brewer under the internal revenue law and secure a permit under national prohibition act, as amended and supplemented, authorizing him to engage in such manufacture, which permit shall be obtained in the same manner as a permit to manufacture intoxicating liquor and be subject to all the provisions of law relating to such a permit." If this beer is nonintoxicating, is it not dealing rather harshly with the manufacturer to make him qualify as a liquor dealer? The bill further provides that "whoever engages in such manufacture without such permit, or in violation of such permit, shall be subject to penalties provided by law in case of similar violations of the national prohibition act as amended and supplemented." Is this dealing fairly with the brewers in manufacturing a perfectly innocent, nonintoxicating drink? It looks like to me that the brewers ought to be protected from their friends. If this bill passes as reported by the committee, will someone please explain to me what will prevent the return of the saloon, against which both parties declared?

Arthur Brisbane says:

It is pathetic that the richest nation in the world should rely for the solution of the money problems on a glass of beer and the amount the drinker can be taxed.

The Dallas News, in its issue of November 13, 1932, contained a very able editorial on this proposed legislation. It said:

Congress should go slow before it enters on a controversy over the Volstead Act of the eighteenth amendment and should remember that the Supreme Court has the last word in respect to congressional statutes. The problem of prohibition is no easy one. Admittedly the law is flouted in many places by numerous reputable citizens every day in the year. On the other hand, there never was a time in preprohibition years when liquor interests obeyed the law with any completeness. Bootleggers, speakeasies, and illegal liquor were well known before 1918. If the sale of light wines and beer were now permitted, it inevitably would bring back the saloons in some form or another, and this again would become the Nation's greatest curse. The expense of wines and beers consumed would certainly mean a corresponding smaller amount for food and clothing, along with a lessened demand for soft drinks, milk, ice cream, and such substitutes for liquor. Intoxicating drinks add nothing of real worth to civilization; the higher the civilization, the less the consumption of alcohol. This is a time to make haste slowly. Economic problems are at the front, not beer drinking. Expected income from beer would be more than offset by increased demand for charity and the added cost of crime. Drinking would multiply accidents in automobiles and reduce working efficiency and home expenditures. Why jump out of the frying pan into the fire by substituting an open saloon for a relatively few wretched speakeasies and law-breaking bootleggers?

I have submitted these extracts from newspapers because I feel it is important for us to know how the people are feeling about these matters. I would like also to call attention to the fact that the Wickersham commission spent nearly a million dollars in making an investigation of the liquor question. There were 11 members of that commission and 10 out of the 11 subscribed to the following:

First. The commission is opposed to repeal of the eighteenth amendment.

Second. The commission is opposed to the restoration in any manner of the legalized saloon.

Third. The commission is opposed to the Federal or State Governments, as such, going into the liquor business.

Fourth. The commission is opposed to the proposal to modify the national prohibition act so as to permit manufacture and sale of light wines or beer.

It is my information that a majority of the members of the Wickersham commission were wet. The member of the commission who did not sign the above report made this statement:

I do not favor the theory of nullification; and so long as the eighteenth amendment is not repealed by constitutional methods, it seems to me to be the duty of Congress to make reasonable efforts to enforce it.

Concerning light wines and beer this same member of the Wickersham commission says:

I do not think that any improvement in enforcement of the eighteenth amendment would result from an amendment of the national prohibition act so as to permit the manufacture of so-called light wines and beer. If the liquor so manufactured were not intoxicating, it would not satisfy the taste of the great majority of those who are now drinking intoxicating liquors; and if it were intoxicating, it could not be permitted without violation of the Constitution.

The name of the member of the Wickersham commission from whom I have been quoting, and who, I understand, was wet, is Mr. Monte Lemann, of New Orleans, La.

Another member of the Wickersham commission, Chief Justice Kenneth Mackintosh, of the Supreme Court of Washington, said:

Civilization will not allow this Nation to end the long attempt to control the use of alcoholic beverages.

I have said that under this bill as reported by the committee the open saloon is inevitable. I defy anyone to contradict that under the plain language of the bill and the evidence offered to the Ways and Means Committee, and in this connection I desire to call attention to the fact that George W. Wickersham, the chairman of the Wickersham commission, said in his report:

The older generation very largely has forgotten, and the younger never knew, the evils of the saloon and the corroding influence upon politics, both local and national, of the organized liquor interests. But the tradition of that rottenness still lingers even in the minds of the bitterest opponents of the prohibition law, substantially all of whom assert that the licensed saloon must never again be restored.

I believe as strongly as that I live that this bill, in its present form, constitutes a nullification of the Constitution of the United States, which I have taken an oath to support. Nonintoxicating beer may now be manufactured and sold throughout the United States. The percentage of alcohol called for in this bill is that of the old-time beer, which produced intoxication in its day and which will produce intoxication now. I think friends of this measure are wasting time on pressing its consideration at this time. On August 11, 1928, President Hoover, in his acceptance speech at Stanford University, said:

Modification of the enforcement laws which would permit that which the Constitution forbids means nullification. This the American people will not countenance. Changing the Constitution can and must be brought about only by the straightforward method provided in the Constitution itself. There are those who do not believe in the purposes of several provisions of the Constitution. No one denies their right to seek to amend it. They are not subject to criticism for asserting that right. Whoever is elected President takes an oath to faithfully execute the office of the President, but that oath provides still further that he will, to the best of his ability, preserve, protect, and defend the Constitution of the United States. I should be untrue to these great traditions, under my oath of office, were I to declare otherwise.

This same man is the President of the United States at this time, and can anyone who is in favor of this legislation believe that he will approve this bill if it is passed? Or have you forgotten that the President made that statement? In view of that statement, are you not wasting time to-day in considering this legislation? I know that we are wasting time, whether you know it or not. Daily I am receiving letters from farmers, good, honest men, who, handicapped by circumstances over which they have no control, are to-day

about to lose their farms because they can not meet their payments to the land bank which holds indebtedness against their farms. These farmers are not anarchists; they are not bolsheviks; they are the "salt of the earth" and the hope of the stability and prosperity of this great Republic. Congress should be dealing with their problems at this time and making it possible for the refinancing of all of these obligations of the farmers in order that they may save their homes, and if this short session of the Congress adjourns without doing something in this regard, then it would have been better had it not met.

Ill fares the land, to hastening ills a prey,
Where wealth accumulates, and men decay.
Princes and lords may flourish or may fade,
A breath can make them, as a breath hath made;
But a bold peasantry, the country's pride,
When once destroy'd, can never be supplied.

This Nation can not regain prosperity until its farmers are prosperous, and their welfare should be the first thing to be considered by this Congress, and I for one will never vote to adjourn for the holidays or for any other time until our responsibility to them and to our country has been met to the very best of our ability.

Who saves his country saves all things; and all things saved bless him; who let his country die, let all things die, and all things dying curse him.

Mr. HAWLEY. Mr. Chairman, I yield 15 minutes to the gentleman from Ohio [Mr. MOUSER].

Mr. MOUSER. Mr. Chairman, I am glad to see a spirit prevail in this House whereby proponents of this legislation as well as the opponents give each other respectful attention. The question before us is a great one. Many millions of people in the country are interested pro and con. I hope that we who are opposing this legislation give just as respectful attention to those proposing it as we would wish them to give us.

Mr. Chairman, I do not agree with those who say that the unprecedented majority given the Democratic Party in the last election was based upon the proposition that the people wanted booze. To-day we are wasting precious time. There are 10,000,000, to be conservative, of wage earners and bread-winners who are walking the streets in the land of opportunity, wondering where the next meal is coming from for their little children, and we, as a measure of remedying the economic chaos in America, are going to bring the people out of depression into the sunlight of opportunity and a job by passing a beer measure.

This legislation emanates from the Ways and Means Committee. Its primary purpose, therefore, is to raise revenues for the purpose of balancing the Budget. That is the only reason that committee would have for considering this legislation. Now, how much revenue will it raise? The Secretary of the Treasury says from $125,000,000 to $150,000,000 a year. The proponents of the legislation try to convey the argument that it will raise a great deal of money, and in their strongest statements they say it will raise between $200,000,000 and $250,000,000.

Mr. Chairman, there will be a deficit in the Treasury of at least $1,000,000,000 on next July 1, the start of the fiscal year; yet it is claimed, and the impression has gone out, that this legislation is going to balance the Budget. Such argument is nonsensical. It will not stand the test of the facts as to the Budget, and I hope those who are proposing it will take the stand that they are voting for this legislation because of satisfying the human appetite rather than solving the economic questions facing us to-day and the question of balancing the Budget.

Four per cent beer—3.2 per cent by weight—is admittedly the old beer. Is there any Member here who can conscientiously say that when three-fourths of the States, acting through their State legislatures, ratified the eighteenth amendment they did not intend to outlaw beer as well as hard liquors?

On December 7 I made reference to a statement that had appeared in the press quoting Anton Cermak, the mayor of Chicago. I made that speech on a Wednesday. If the papers correctly quoted him after the election, flushed with the great Democratic victory, he said the people had spoken and that he would not interfere with the sale of beer in Chicago.

Now, what happens when you turn over a great city to the hoodlums and the racketeers when the dollar sign is actuating them to kill each other? It was not over five days later that there were 8 killings in Chicago in a 24-hour period—6 men and 2 women. However, I want to give him credit. He saw the falsity of the philosophy that would turn over the government of a community to the hoodlums and the racketeers, and he instructed the police department to make raids upon speakeasies and beer joints, and they took axes, according to the newspapers, and smashed down the bars. Now, according to the press dispatches, he says he has rid Chicago of the beer racketeer and the bootlegger. I want to commend the mayor of Chicago for that action, the same as I criticized his attitude prior to that time.

I think America has learned a lesson from what occurred in Chicago and that we are not going to be misled by this beer legislation into the belief that the beer racketeer and the bootlegger will not be here in this country, even if this legislation is passed, to sell hard liquor to those who want it.

Mr. SABATH. Mr. Chairman, will the gentleman yield?

Mr. MOUSER. I yield.

Mr. SABATH. The gentleman has spoken approvingly of the splendid efforts on the part of Mayor Cermak, who rid Chicago of the conditions existing under prohibition. I want to say to the gentleman that two mayors before him tried to do it, and both failed, because the prohibition law could not be enforced.

Mr. MOUSER. That is not a question; that is a statement. Now, listen. I want to say to my friend from Chicago that the reason the mayor of Chicago took the step he did was not because of prohibition but because of the fact he told them to turn on the beer right after election day.

Mr. PALMISANO. Will the gentleman yield?

Mr. MOUSER. I will yield in a moment.

That is the falsity of the flush of victory that tells the hoodlums they can take over municipal government, and that is the falsity of passing beer legislation to cure the claimed evils of prohibition or the eighteenth amendment, in that you are going to stop the racketeer and bootlegger and prevent corruption by the passage of this so-called revenue measure. The hard-liquor drinker will want liquor, and you are going to have Canada supplying liquor to American citizens, and millions of dollars will go there, and you will still have your racketeers and bootleggers.

Mr. COOPER of Tennessee. If the gentleman will yield just on that point, I may state to the gentleman that the representative of the brewers' association before the committee stated very frankly that the enactment of this bill would not eliminate the bootlegger.

Mr. MOUSER. That is the record, and I thank the gentleman for his contribution.

Now, if you are trying to carry out the Democratic platform by forcing beer legislation upon this Congress prior to submitting the eighteenth amendment and the question of its modification or repeal to the people in an orderly way, you are forgetting the mandate of the American people and the great plank in your platform which pledges you to restore economic prosperity in this fair land of ours—America, where a man has the right to expect a job if he is honest and willing to work. I am glad there are many distinguished gentlemen on the Democratic side of this House who are not forgetting the primary purpose of the American Congress at this troublesome time.

Mr. BRITTEN. Will the gentleman yield?

Mr. MOUSER. I will yield for a question, but not a speech.

Mr. BRITTEN. My friend from Ohio is appealing to the gentlemen on the other side to listen and to follow a certain mandate in their national Democratic platform, while at the same time he is preaching to them to reject another mandate in that same platform.

Mr. MOUSER. Oh, the trouble with the gentleman is that he is following the mandate of the Democratic platform and not good common sense. [Laughter and applause.] I have a great deal of respect for my friend from Illinois, but I think he has gone clear daffy on the question of beer.

Mr. BRITTEN. If I have gone "clear daffy on the question of beer," I will be here next year to remain daffy while the gentleman, because of his stand on prohibition, will not be here because of his intolerant stand on prohibition. I am sorry for him in his misjudgment.

Mr. MOUSER. I do not yield further. Let me say to the gentleman that the gentleman may find out that the people of Chicago will turn him out of Congress if he permits the hoodlums and the racketeers to run his city. [Applause.]

Mr. BRITTEN. Chicago has always been able to care honorably for itself.

Mr. MOUSER. You are not here for life, Fred—better men than you have been defeated.

Mr. BRITTEN. The speaker himself is a better man than I am, but he is intolerant on the prohibition question.

Mr. MOUSER. I am not a bigot. I will vote for resubmission if the dry States are protected and the saloons outlawed.

Mr. BRITTEN. Did the gentleman vote for resubmission a few weeks ago?

Mr. COOPER of Ohio and Mr. BLANTON rose.

Mr. MOUSER. I yield to the gentleman from Ohio.

Mr. COOPER of Ohio. According to the philosophy of the gentleman from Illinois [Mr. BRITTEN] a man's qualifications to represent a great industrial district like the gentleman's district or my district in Congress, is to be measured on a glass of beer.

Mr. MOUSER. That is right.

Mr. COOPER of Ohio. If that is the only qualification he has to have, why put the people to the expense of holding primary elections—go down into the back alleys and pick them out—you can find them there any time you want them. [Applause.]

Mr. MOUSER. Why have the American Congress, where people debate great questions? Let us meet in breweries and in saloons and settle all the questions of the day. I can not understand that great feeling of exaltation which thrills a man because he was elected this year in trying to underestimate the sincerity of us lame ducks. There have been very great men in this House who have been defeated. I am quite sure my distinguished friend from Illinois was not elected because he came out of the White House and quoted the President as saying he would sign a beer bill. I am quite sure the gentleman observes the proprieties in his district in Illinois, and I am sure he did not mean to override precedent for years in quoting the President of the United States to the effect that he would sign a beer bill, when the gentleman from Illinois had no right to.

Mr. BRITTEN. Will the gentleman yield?

Mr. MOUSER. I can not yield.

Mr. BRITTEN. I want the gentleman to be correct in his statement.

Mr. BLANTON. Mr. Chairman, the gentleman refuses to yield. The gentleman from Illinois ought to observe the proprieties.

Mr. BRITTEN. Mr. Chairman, I merely desire the gentleman to be correct in his reference to me.

The CHAIRMAN. Does the gentleman from Ohio yield to the gentleman from Illinois?

Mr. MOUSER. I would be glad to have the gentleman correct the statement appearing in the press, if he will not make a speech.

Mr. BRITTEN. I shall not make a speech. I may say that when I came out of the White House after conferring with the President, I was asked if he would sign the beer bill——

Mr. MOUSER. What did he say?

Mr. BRITTEN. Not what did he say—what did I say.

Mr. MOUSER. What did he say?

Mr. BRITTEN. I said he would not veto the beer bill if passed by the present Congress. Then some reporter asked me, "Did you say he would sign the bill," and I said, "No; I did not say he would sign the bill; I said he would not veto it." I merely wish the gentleman to be correct.

Mr. MOUSER. Does not the gentleman think he violated the etiquette of the occasion and violated the precedent——

Mr. BRITTEN. No; not a bit. I truly believe the President will not veto a great revenue-producing measure at a time when the Federal Treasury is so flat.

Mr. MOUSER. When you came out of a conference with the President and left the intimation that the President had said he would not veto the beer bill.

Mr. BRITTEN. No; my language to the press representatives was very clear and based on ordinary common sense.

Mr. MOUSER. What does the gentleman say now as to whether the President will veto this bill or not?

Mr. BRITTEN. I will tell you why I said that.

Mr. MOUSER. What do you say now?

Mr. BRITTEN. I say now he will not veto this bill if it is passed by the Congress.

Mr. MOUSER. On what do you base that?

Mr. BRITTEN. On a letter the President wrote in 1918. [Here the gavel fell.]

Mr. HAWLEY. I yield the gentleman one minute more.

Mr. YATES. I ask unanimous consent that the gentleman from Ohio may have all the time he wants.

The CHAIRMAN. The gentleman from Oregon controls the time.

Mr. BRITTEN. I will say that I base that on a letter written by the President himself to Senator SHEPPARD, in which he said that it would be pretty hard to become intoxicated on 2.75 beer. The President was appealing against intolerance toward the brewers of the country. He favored their brewing of a wholesome glass of beer.

Mr. MOUSER. But we have 4 per cent beer in this bill.

Mr. SABATH. When was the letter written?

Mr. BRITTEN. In 1918. [Laughter.]

[Here the gavel fell.]

Mr. VINSON of Kentucky. Mr. Chairman, I yield 10 minutes to the gentleman from Indiana [Mr. CANFIELD].

Mr. CANFIELD. Mr. Chairman, ladies and gentlemen of the committee, by the passage of H. R. 13742 we will be fulfilling one of the pledges made in the last campaign, one the American people have a right to expect will be fulfilled at the earliest date possible.

The voters at the last election indorsed the Democratic platform by an overwhelming vote. A platform which reads in part as follows:

> We favor immediate modification of the Volstead Act to legalize the manufacture and sale of beer and other beverages of such alcoholic content as is permissible under the Constitution and to provide therefrom a proper and needed revenue.

In my opinion, when this bill is passed every Democratic Member that votes for it will have fulfilled the promise he made on this question. I have received a number of letters from constituents, in which they say:

> You were not a candidate at the last election, therefore you are not bound by the platform adopted by the Democratic Party at Chicago.

It is true I was not a candidate, but I spent almost six weeks speaking for my party and assured every audience that if the Democrats were successful that the pledges made in our platform would be fulfilled; and for that reason, if for no other, I feel that I am obligated to vote for this bill, and I likewise feel that every other Democratic Member that was a candidate or spoke for the Democratic ticket in the last campaign should vote for this bill.

H. R. 13742 is not in every detail the kind of a bill I would like to have seen brought on the floor, and I have no doubt in my mind that every member on our committee would like to see some change made in it; furthermore, I hope it may be amended here on the floor so that beer can only be served and consumed in bona fide hotels, restaurants, clubs, public eating places, dining cars, or homes; but, regardless

of whether it is or not, I expect to vote for it, for in the few years I have been here I have found that no Member, regardless of who he may be, or the position he holds, is ever able to have legislation passed exactly the way he would like to have it. The bills that are finally passed are generally a compromise.

The majority of the voters at the last election, in my judgment, said in no uncertain terms that they not only wanted Congress to submit a resolution to the States for the purpose of repealing the eighteenth amendment of the Constitution, but they also demanded that Congress modify the Volstead Act so that a nonintoxicating drinkable beer could be made and sold without it being considered unlawful. So for that reason, Mr. Chairman, ladies, and gentlemen, whether this bill is written exactly the way I would like to have it or not, I for one feel that it should be passed, so that a palatable beer can be restored to the great majority of American people that have demanded it and that our Government can collect the revenue it has been deprived of, which in the years prior to 1920 was a very fruitful one.

Much has been said about the per cent of alcoholic content. I have in the past been for a 2.75 per cent alcoholic content by weight for the reason that I was not sure 3.2 per cent would stand the test of the court, but some of our best legal minds have advised us that if the bill is passed with a 3.2 per cent alcoholic content by weight it will be constitutional. Some of the best experts before our committee testified that a 3.2 per cent beer would require a much larger quantity of farm products. This being true, and with our farmers in the condition they are to-day, I am willing that the alcoholic content be made 3.2 and trust it will stand the test of the court as to its constitutionality.

There has been a wide difference of opinion expressed before our committee as to what was really intoxicating in fact and as to what alcoholic content would make a beverage that would be an acceptable drink, what amount would be consumed, and as to what the tax should be.

After listening seven days to the hearings, I am frank to say, as a member of the committee, the opinions of experts on this question are about as far apart as the North Pole is from the South Pole. Some seem to think we can balance the Budget by legalizing beer, while the Secretary of the Treasury told us the $5 per barrel tax would only bring into the Treasury from $125,000,000 to $150,000,000. One Member of Congress asked that the tax be made not over $3 per barrel, while another Member, who, by the way, has been one of the leaders of the so-called wet group, said it should be $7.50 per barrel. Another Member of Congress said he went to a brewery in Sweden at 9 o'clock in the morning, before eating or drinking anything, and on an empty stomach drank four bottles of beer 3.2 by weight and that it did not affect him mentally or physically.

Bishop Cannon stated:

> I have heard within the last two weeks two individuals say that they have become intoxicated on one-half of 1 per cent when they took it on an empty stomach. Just that much alcohol made them unsteady and uncertain.

One professor told us that anyone would become more intoxicated by smoking a good cigar than he would by drinking a glass of 3.2 beer, while another professor stated that through personal experiments or tests he had made he had found that 3.2 beer was intoxicating. When he was asked about comparing it with a cigar, he stated he had not made any tests on cigars. For your information, however, I will say I found out that the professor that said it was not intoxicating liked a glass of good beer but did not smoke cigars, while the one that said it was intoxicating did not like beer but did like a good cigar. So, the only thing any member of the committee could do after listening seven days to the hearings was to use his own best judgment, and, I as one member of the committee, am convinced that this bill should be passed for four reasons.

First. The restoration of a light beer, now practically unavailable, in my opinion would displace much of the hard liquor now widely available and thus promote sobriety and temperance.

Second. Liquor and beer of a high alcoholic content, as we all know, are now sold almost everywhere without the Government getting any tax. If this bill is passed, in my opinion the Government will receive between $200,000,000 and $400,000,000 income from the $5 per barrel tax on beer, the $1,000 brewers occupational tax, and from an increased income tax from those who manufacture and furnish supplies to the brewers. This, as we all know, would go far towards balancing the Budget and if economy is adhered to during this session, possibly prevent further increases in taxes.

Third. The manufacture of beer would increase the use of the farmers' grain and other products. To manufacture the beer that it is estimated would be consumed the first year would require approximately 44,000,000 bushels of barley, 800,000,000 pounds of other cereals, such as rice and corn, and sugar and other ingredients used in the manufacture of beer, and this would possibly be increased to twice that amount in three or four years.

Fourth. It will give employment to approximately 75,000 men in the breweries and about 225,000 men in the wholesale and retail distribution. In addition, there will be at least twice that many men indirectly employed through the demands made for supplies by the brewing industry and the retailers of beer. In addition to this, it is estimated that the expansion of production in the brewing industry would require an estimated capital expenditure of $360,000,000 within the next year for rehabilitation and modernization of plants and getting ready for retail distribution would require possibly a larger amount of expenditures.

Mr. Chairman, ladies, and gentlemen, in my opinion a large majority of the American people are demanding that legislation of this kind be passed and that without delay, and I feel that it is our duty as Representatives in Congress to comply with their wishes and pass this bill. [Applause.]

Mr. BACHARACH. Mr. Chairman, I yield eight minutes to the gentleman from Missouri [Mr. DYER]

Mr. DYER. Mr. Chairman, on the 17th of December, 1917, this House passed a resolution out of which grew the eighteenth amendment to the Constitution. On January 29, 1919, it became a part of the Constitution.

Since that time we have had prohibition in this country. I voted against that resolution at the time and spoke against it, and have for all the years since believed that prohibition had no part in the Constitution of the United States, but was a matter at all times for regulation by the States.

I am glad that the people on the 8th of November last expressed themselves so well and so forcibly and so ably upon this question, although I am one of those who will leave Congress at the end of this session because of that vote. The reason for this is that I had to run at large, and all the Democratic candidates for Congress in Missouri pledged themselves to vote for the repeal of the eighteenth amendment and to modify the enforcement act. I had to run on the Republican ticket, which was not as clear upon this as the Democratic, yet I received 609,268 votes, running ahead of all the Republican candidates and received 100,000 more votes than Mr. Hoover did in the State. I am glad that the people, through the Democratic Party and its platform have had an opportunity to express itself upon this evil which has caused so much destruction of property and employment and heavy taxation upon the people of America.

They expressed themselves ably and well, and the great leader of this House, the Speaker, had the courage to bring forth into this House some weeks ago a resolution that came from the people of this country and his party, and yet there were those, as there are now upon the Democratic side, men representing districts of this country, coming from the people in the whole Union who expressed themselves so strongly against prohibition, who defeated the resolution submitting to the people a repeal of the amendment. Some of them to-day are here voicing their opposition and the carrying out of another pledge of that platform which provides for the people a nonintoxicating beverage.

And upon that question of its being intoxicating, permit me to say that I have for 20 years been a member of the committee of the House that has jurisdiction of the question of prohibition.

We had extensive hearings time and time again before and after the resolution calling for the eighteenth amendment was ever submitted, and the opinion of experts who are able to know is that a beverage of this character is not intoxicating. Even Mr. Volstead himself admitted that 3 per cent beer is not intoxicating. The reason we put in one-half of 1 per cent was because of laws in the Internal Revenue Department affecting alcoholic content to be used in non-alcoholic beverages, and because a number of States had that provision in their laws. It was dishonest, so far as the amendment was concerned, to say to the people by implication even that anything over one-half of 1 per cent of alcoholic content was intoxicating. I wish Mr. Volstead were here himself to-day, because I know that the author of this prohibition enforcement act would tell you that it is not intoxicating.

The eighteenth amendment and the enforcement act have brought about conditions in this country that are intolerable. I cite you an instance. A short while ago they inducted into office in Minnesota Mr. Robert D. Ford as prohibition administrator for the eighth district. Mr. Volstead, the author of this enforcement act that we are considering to-day, was present. He had been the attorney up there for this prohibition administrative department. The new prohibition administrator was introduced to Mr. Volstead. He said to him, "I am happy to meet you, Mr. Volstead, but I would not have had any trouble in recognizing you from your pictures. Just last week down in Baltimore on Linden Street, I raided a speakeasy, and there was a picture of you hanging over the bar." So, Mr. Chairman, in lieu of decent and respectable places for the drinking of nonintoxicating beverages, we have to-day the worst-possible conditions under this law.

Mr. Wayne B. Wheeler for years represented the Anti-Saloon League here. He has testified also that one-half of 1 per cent is not intoxicating, that 2 per cent is not intoxicating, and that 3 per cent is not intoxicating. Recently Mr. Justin Stewart published a biography of the late Wayne B. Wheeler, and here is what he said, in part:

> Wayne B. Wheeler controlled six Congresses, dictated to two Presidents of the United States, directed legislation in most of the States of the Union, picked candidates of important elective State and Federal offices, held the balance of power in both the Republican and Democratic Parties, distributed more patronage than any other dozen men, and supervised a Federal bureau from the outside.

Mr. Chairman, this is the situation to-day; and the American people on the 8th of November last said to their Representatives, "Legislate for us and not allow the Anti-Saloon League to further do this job." [Applause.]

Seventy-five or eighty thousand persons were employed directly in the breweries.

Mr. Wheeler, of the Anti-Saloon League, told the Senate Committee on Agriculture in 1917 that more than 1,000,000 persons were engaged in the manufacture and distribution of alcoholic beverages. I think he was not far wrong.

During the period of maximum production of beer more than 1,700 breweries were in operation. Most of these breweries have been idle for 12 years. It would cost approximately $100,000 each to remodel them for operation. That would give employment to much capital and labor.

It is perfectly clear that on the preprohibition rate of taxation and production that the legal sale of beer would produce a revenue of $400,000,000 annually for the Federal Government and the States would also benefit in revenue from this source. This $400,000,000 would not come the first year, but by the end of the second year it will.

In establishing the economic value of beer, we can safely rest upon facts well established by prohibitionists themselves.

In 1917 Prof. Irving Fisher, of Yale University, was president of the National War Time Prohibition Association. He was closely identified with the Anti-Saloon League. Professor Fisher, in collaboration with Professor Carver and four other economists of Harvard, and Prof. A. E. Taylor, of the University of Pennsylvania, submitted complete proof to the Senate Committee on Agriculture that the brewing industry at that time was consuming 80,000,000 bushels of grain annually.

Before the Senate Committee on Agriculture, George S. Milnor, high-priced grain expert of the Federal Farm Board, stated that it would give full-time employment to 25,000 farmers to grow the 25,000,000 bushels of wheat exchanged for Brazilian coffee. That makes it very clear that it would take the full time of 80,000 farmers to produce the 80,000,000 bushels of grain that would be used by the breweries on the preprohibition basis. In 12 prohibition years the farmers, on account of the prohibition of beer, have lost a market for 960,000,000 bushels of grain, and 960,000 farmers have lost a year's work and income.

Professor Fisher also stated that the breweries originated 13,500,000 tons of freight. That would load 675,000 freight cars. In 13 years the railroads and other freight-handling agencies have lost the movement of more than 8,100,000 cars of brewery freight.

As to revenue, beer was paying a tax of $6 a barrel when the prohibition law became effective. The amount of revenue returned to the Federal Treasury would depend upon the tax imposed and the quantity consumed. If we used the preprohibition production and tax rate, the return to the Treasury would be approximately $400,000,000.

In this connection I have just received some interesting figures from Mr. F. O. Weber, president of the International Steel Co. of Evansville, Ind., as to the number of persons employed in similar industries in England. These figures were compiled by the American Chamber of Commerce in London:

Persons employed in brewing, distilling, malting, and bottling	115,000
Merchanting and wholesale dealing	6,000
Retailing on the premises	400,000
Retailing off the premises	54,000
Registered clubs	12,000
Barley growing	35,000
Hop industry	14,000
Other allied trades	35,000
Total	671,000

In addition it was stated that 440,000 persons were wholly dependent on these industries as shareholders, and that the number of persons indirectly dependent upon them through taxation was 500,000, making a grand total of 1,611,000 persons.

One of the best authorities in the brewing industry is August A. Busch, of St. Louis, Mo. He recently stated that the enactment into law of such a bill as this would provide employment for 1,250,000 in nearly 100 different industries. Reestablish a profitable market for 80,000,000 bushels of grain annually, thereby absorbing the surplus that demoralized grain prices and ruined 30,000,000 farmers. Return an annual revenue of $400,000,000 to the Federal Government and wipe out the Treasury deficit. Help reduce enforcement and crime costs now imposing a burden of $12,000,000,000 to $18,000,000,000 a year on the people. Create an immediate demand for 3,220,000 tons of coal and put in operation 180,000 freight cars transporting this coal to the breweries. Make a powerful contribution to the industrial, economic, and agricultural welfare of the country, thereby helping to restore prosperity.

Mr. Chairman, I end my remarks, as I began, by saying to the Democrats, "You pledged beer in your platform; your candidate for President did the same. The people believed you would keep your word. You did not do it on the repeal resolution. Will you fall down on this? Was your platform and the declaration of your candidates 'molasses to catch flies'?"

The CHAIRMAN. The time of the gentleman from Missouri has expired.

Mr. VINSON of Kentucky. Mr. Chairman, I yield five minutes to the gentleman from Missouri [Mr. COCHRAN].

Mr. COCHRAN of Missouri. Mr. Chairman and members of the committee, I do not desire to discuss this matter from a political standpoint. My colleague from Missouri [Mr. DYER], who has just taken his seat, knows that the people of Missouri spoke on this question in November last, and that in the next Congress the 13 Democrats elected at large from Missouri will cast their votes for repeal of the eighteenth amendment and for the modification of the Volstead law. Further than that, the eight Democratic Members of the present Congress, who will be present in the next Congress, are pledged to vote for this measure, as well as for the repeal of the eighteenth amendment, and they so voted a few days ago and I know they will so vote to-day.

A proper title to this bill would be a bill to reduce unemployment, to provide a market for surplus agricultural products, to assist industry generally, and to increase the revenues.

I come from a city, St. Louis, where the brewing industry was the leading industry of the city prior to prohibition. To-day there are over 100,000 people out of employment there and more than that number existing upon charity. If there is any one act that Congress can perform to relieve that situation, it will be to permit us to resume the manufacture of legal beer in the city of St. Louis.

Some Members here seem to justify their opposition to this bill upon the ground that it will bring back the saloon. Is there a Member of this House who can honestly say that the saloon has ever disappeared? No; the saloon still exists and in many instances it is now in the home. That is a question for your State to decide through regulation and not for the Congress to decide. [Applause.]

To my friends from the farming districts let me say that in the big cities we have asphalt streets, we have granitoid sidewalks, and brick alleys. We do not raise the 125,000,000 bushels of grain that go into the manufacture of beer. That grain is raised upon your farms, and if you want to assist in passing a real farm-relief measure, here is an opportunity to do so. It will absorb the surplus and raise the price of the farmer's products.

I express the hope that Members here will for once think of the welfare of their country, think of relieving the people of this country, many of them facing starvation, and pass this bill to-day so that we will give the unemployed work in this country. You harm only the bootlegger. A vote against this bill is a vote for the bootlegging industry.

Put men back to work; starting in the forests, cutting down the timber which goes into the making of the boxes that move the finished product; help the railroads and the miner, and all the way down the line. By so doing, you are going to help somebody beside the brewing industry. You are helping the cities and the farmers. You are increasing the revenue. This is a real relief measure. [Applause.]

Mr. SANDERS of Texas. Mr. Chairman, I yield 10 minutes to the gentleman from Texas [Mr. LANHAM].

Mr. LANHAM. Mr. Chairman, the Constitution of the United States is the organic law of the land. It is made by the people, not by the Congress. We are here as the representatives of the people. The sovereign power is with them, not with us. It is not for us, therefore, to tamper with their organic law. They alone can change it. That it may be preserved as they themselves decree it, we, as their representatives, take but one oath, aside from the promise to discharge faithfully the duties of our office. That oath is to support and defend that Constitution of the people against all enemies, foreign and domestic.

The Constitution contains a provision prohibiting the manufacture, sale, and transportation of intoxicating liquors. Whether that provision is a wise one that should be retained or an unwise one that should be repealed is for the people themselves to determine, not the Congress. The fact remains that it is now a part of the Constitution, the very Constitution we are sworn to support and defend. Under these circumstances there can be, in my judgment, no freedom of choice on the part of Representatives, whether wet or dry, in the matter of voting upon a proposal violative of that provision of the Constitution.

The bill before us proposes to legalize beer and other named beverages which contain not more than 3.2 per cent of alcohol by weight, which the committee states in its report is equivalent to 4 per cent by volume. What a very striking resemblance to the beer manufactured and sold before the adoption of the eighteenth amendment! If it is not intoxicating, the enactment of this proposed legislation would very grievously disappoint those who are sponsoring it. They can hardly be supposed to believe that the drinking public in America is going to expend enormous sums, a small fractional part of which as taxes will yield the Government hundreds of millions of dollars annually in revenue, for a beverage altogether lacking in the proverbial kick. [Applause.] This country has a great many soft drinks at present, and not all the manufacturers of them are prospering by any means. What rosy hope can there be that the adding of another soft drink to the list will swell our Federal income so extravagantly? The answer is plain: It is not that kind of beverage. [Applause.]

Mr. STAFFORD. Mr. Chairman, I rise to a question of order.

The CHAIRMAN. What is the question of order?

Mr. STAFFORD. It is that a former Member of this House, even though he was a candidate for the Presidency of the United States on the Prohibition ticket, has no right to applaud on the floor of the House remarks of the speaker having the floor.

Mr. BLANTON. No one could keep from applauding that sentiment.

The CHAIRMAN. The gentleman has properly raised a question of order. The Chair is advised by the Parliamentarian that although the gentleman referred to is entitled to the privilege of the floor it is a violation of the rules for him to indulge in approbation or disapproval of what may be said upon the floor.

Mr. LANHAM. A very interesting feature of the majority report is that in which it seeks to give medical advice to the American people as to the times and manner of their drinking. It seems from this part of the report that though its authors fear the beverage they prescribe is intoxicating when taken as a mere potation, they desire to avert that possibility by suggesting that it be consumed only at meals, and so diluted with food as to rob it of this intoxicating effect; but they are somewhat careless in that they do not particularize to state either the quantity of beer that should be drunk or food that should be eaten to insure this result. Surely, with such information lacking, some people may fail through sheer ignorance in diluting properly with meat and bread this beverage which they recommend to be so taken. I am inclined to doubt that the committee will be able by this advice to restrict the American people altogether to a faithful observance of the convivial formula they prescribe. And in giving their medical injunction the majority of the committee seem to have more in mind the constitutions of American citizens than the Constitution of the United States.

But, adroitly sidestepping the real issue involved in so far as our votes on this measure are concerned—that is, whether or not it authorizes the manufacture, sale, and transportation of an intoxicating beverage—the question of raising revenue is brought to the foreground and emphasized. It has been stressed by some recently that the real issue is that of taxes. They contend that the true purpose can not be to give beer to the thirsty, because the thirsty are now getting their fill under present conditions. In my opinion, that argument very largely refutes itself. I think any observing person will agree that there is much truth in the statement that they who desire beer are getting it now. But how are they getting it? In many, if not in most, instances they are brewing it themselves; and I think the candid observer will confess also that they are brewing it much cheaper than they can buy it under the terms of this bill and that it has a considerably higher alcoholic content than that here pre-

scribed. What assurance have we, even if the question were reduced to one of revenue, that these people will relinquish their cheaper beer with the harder kick for the so-called mild beverage the committee offers? And, with millions of our citizens walking the streets asking for employment by which they may earn enough to provide food and clothes and shelter for their families, from what source is the enormous revenue to come for this more expensive and less exhilarating drink? That the proposed tax on beer can prove no panacea for our economic ills is established by a glance abroad. In European countries beer and ales and wines and liquors of various kinds are plentiful and practically unrestricted, but their financial situation is quite as deplorable as our own, perhaps more so.

In my judgment, this matter should not be approached from an individual attitude of being wet or dry. The first and prime thing at issue must necessarily be whether or not this measure violates the Constitution of the United States. If it does, neither wets nor drys can be justified in supporting it.

The sponsors of this bill are putting the cart before the horse. If the cure for the existing evils is to be found in the repeal of the eighteenth amendment and the determination of policy by the individual States for themselves, then let the matter be submitted to the people that they may consider and discuss it thoroughly and determine the policy to be pursued. It is their province to make this policy, not ours. Until and unless they change it, it is beyond our right as Representatives to violate our present obligation and responsibility. We are but their agents. The question with us in the consideration of this bill is not whether we are wet or dry, but whether or not we have that respect for the organic law of the people and its observance that, under our oaths, we will uphold it regardless of whether or not it comports with our individual opinions.

For us there is one chief inquiry: Is this proposal in contravention of the Constitution of the United States? That must be our principal consideration whether wet or dry. Believing as I do that it is in violation of the constitutional provision, I can not give it my support. [Applause.]

Mr. SANDERS of Texas. Mr. Chairman, I yield 12 minutes to the gentleman from Georgia [Mr. TARVER].

Mr. TARVER. Mr. Chairman, at a time of great distress and misery, unparalleled during the last half century of our country's history, and as the day approaches when the Star of Bethlehem is again to shed its holy light over the sufferings of our people, the Ways and Means Committee comes bringing its gift in commemoration of the natal day of the Savior of mankind, and that gift is the open saloon.

When I look upon the personnel of this great committee, and I think of the iniquitous general sales tax which they sought to foist upon us at the last session of Congress and are reported to be considering anew, when I think of the abhorrent nuisance taxes which they did impose upon our people, I can not fail to join those things in my mind with this proposal, that the people of the United States shall spend a billion dollars a year for the enrichment of the brewers, and in order that $300,000,000, or approximately that amount, may be paid into the Treasury.

I recall in that connection that the gentleman from New York [Mr. CULLEN] in his remarks this morning pointed out that that money is to be spent by the poor man; that this is the poor man's drink. So it is from the poor man of the United States that it is proposed to take this $1,000,000,000 to be divided jointly between the breweries and the Government itself. I think in that connection also of the fact that the American Congress is still spending a billion dollars a year more than the people of this country have found themselves able to pay in taxes, and when I think of those things it seems to me that I hear floating on the air at this Christmastide the words of Him who taught along the shores of Galilee, when He said:

> Woe unto you also, ye lawyers, who lade men with burdens that are grievous to be borne and ye yourselves touch not the burdens with one of your fingers.

Mr. BEAM. Will the gentleman yield?

Mr. TARVER. I can not yield. My time is very limited.

In the days when the French Revolution was impending her counselors came to the Queen, Marie Antoinette, with the statement, "The people are hungry. They have no bread," and the Queen exclaimed, "What? They have no bread? Then let them eat cake."

To-day millions upon millions of American citizens who are just as much entitled to live in comfort as you or I come to the Congress of the United States with the cry that they are hungry, that they are naked, and this merciful Ways and Means Committee of the House of Representatives replies, "What? You have neither food nor clothes? Buy beer. Buy yourselves a billion dollars' worth of beer."

A century and a half ago guillotines took root and thrived on words and conduct of that kind.

My friends, this legislation that it is proposed to enact will, if passed, spread upon the statute books of this country a legislative falsehood, and that is particularly true of section 2 of the bill. Let me read a part of it to you:

> Wherever used in the national prohibition act, as amended and supplemented, the following terms shall, so far as relating to beer, ale, porter, or similar fermented liquor, have the following meanings:
>
> (1) The term "one-half of 1 per cent or more of alcohol by volume" shall mean "more than 3.2 per cent of alcohol by weight."

And there are other similar provisions in that section. The committee reports that it is "technically necessary" to include these provisions in the bill, and yet the fact remains that in order to bring about the passage of this measure the committee finds it necessary to declare, and to ask us under our oaths to vote to declare that one-half of 1 per cent of alcohol by volume is the same thing as 3.2 per cent of alcohol by weight.

There is not a man upon the floor of this House who does not know that it is not true, and if he votes for it he votes for it knowing that it is not true. If there is a man within the sound of my voice who differs with that statement, I want him now to rise in his place and state the basis for his difference.

Mr. STAFFORD. Do I understand the gentleman to say that 3.2 per cent beer is intoxicating?

Mr. TARVER. I am not discussing that question at all. I am discussing the provision which has been incorporated in this bill which declares that "one-half of 1 per cent or more of alcohol by volume" shall mean "more than 3.2 per cent of alcohol by weight."

It is fitting that a palpably untrue declaration of that sort should be included in a bill which, if it is passed, will be in its entirety a tremendous, abhorrent legislative falsehood.

Mr. MOUSER. Will the gentleman yield?

Mr. TARVER. I yield.

Mr. MOUSER. If 4 per cent beer is the old beer, I will say that it is intoxicating.

Mr. LAGUARDIA. Will the gentleman yield?

Mr. TARVER. I am sorry, but I can not yield. I only have a few minutes remaining.

Now, if this beverage intended to be legalized by the passage of this bill is not intoxicating, there is not a wet in this country that wants it. If it is intoxicating, it is unquestionably in violation of the oath of office of every Member of this House who votes for it.

I propose, with the consent of the House, to insert in the RECORD at this point a brief statement of the constitutional provision on this subject and of the oath of office of a Member of the House of Representatives, and in connection therewith an excerpt from the Democratic platform relating to this subject matter.

The Constitution of the United States provides:

> The manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all Territories subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

The oath assumed by Members of Congress is in the following language:

I do solemnly swear (or affirm) that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

The Democratic platform of 1932 declares:

We favor immediate modification of the Volstead Act to legalize the manufacture and sale of beer and other beverages of such alcoholic content as is permissible under the Constitution, and to provide therefrom a proper and needed revenue.

Talk about party loyalty, my friends. Is there any man, however strong he may be in favor of absolute party loyalty, who will say that the Democratic platform ever pledged or undertook to pledge the Democratic Membership of this House to vote for a provision in violation of the Constitution of the country and their oaths of office?

Whatever may be said about the character of this bill and about its purpose, we must, I feel sure, agree that men can not bring in here—must not bring in here—legislation drawn at the behest and under the guidance of the brewers of this country, formulated by their legal counsel in consultation with the Legislative Counsel of this House, which proposes to authorize the doing of something which is prohibited by the Constitution of the United States and then insist that such legislation is of a character which either requires or merits the support of a Member of this House who regards the Constitution and regards his oath of office.

Mr. O'CONNOR. Mr. Chairman, will the gentleman yield?

Mr. TARVER. I do.

Mr. O'CONNOR. I do not know that the brewers or their counsel had anything to do with the drafting of this bill.

Mr. TARVER. I am surprised at the gentleman's lack of information.

Mr. O'CONNOR. But I will state to the gentleman that no brewer—or no attorney for a brewer—ever had anything to do with the drafting of any of the beer bills which have been introduced on the floor of the House which I have supported.

Mr. TARVER. I am glad to hear the gentleman disassociate himself from the leadership of those urging this measure, because I am reliably informed that Mr. Levi Cooke, attorney for the Brewers' Association, participated in the formulation of this measure in collaboration with the Legislative Counsel of the House.

Mr. O'CONNOR. Will the gentleman yield further?

Mr. TARVER. I shall be pleased to.

Mr. O'CONNOR. I do not believe that could be the fact, for the reason that this bill is not substantially different from the bill we voted upon last May, the language of which no brewer or attorney for a brewer ever touched.

Mr. TARVER. I hold in my hand a letter written by the president of the Anheuser-Busch Co. to the hotel managers of this country, and also one to Members of the House of Representatives, and in these letters he undertakes to outline the character of legislation which should be enacted by the Congress. This bill is identical with his suggestions.

I submit that it is first necessary for the Member of Congress who regards the Constitution and the obligation of his oath—and I trust we all do—to examine this bill and determine, "without any mental reservation or purpose of evasion," whether it is intended to evade our Constitution and to bring about the sale of intoxicating liquors in violation of its terms. If such is its purpose, then certainly no Member, however much he might favor legalizing the sale of beer, could afford to vote for it. If to legalize the sale of beer involves an amendment to the Constitution of the United States, then the wet Member who regards his oath of office will fight here to amend the Constitution; but pending its amendment, he will fight equally as hard to prevent its violation. To say anything else would imply that lawlessness and the tendency to refuse to brook restraint have reached even to the Halls of Congress and that men, suffering from a wet political complex engendered by antiprohibition propaganda, are prepared to override even the foundation of all law in an effort to satisfy what they consider a popular demand.

I can not believe that this great body has deteriorated to that extent. I can not feel but that, when men are asked to vote for this legislation upon the argument that 4 per cent beer is not intoxicating, they must think of that portion of their oath which relates to the "purpose of evasion." That beer of the alcoholic content provided in this bill is intoxicating when drunk to excess by the normal individual under normal conditions, there can not be the slightest room for reasonable doubt. I have seen men to whom large quantities of high-proof whisky were not intoxicating, when they had been hardened and inured by the excesses of years to its effects. It is no doubt perfectly true that many men, accustomed to the excessive use of intoxicants, might absorb large quantities of the beer proposed to be legalized by this bill without staggering or falling to the ground, and perhaps in many cases without giving outward evidences of intoxication. But we are legislating for the normal individual, who for 12 years throughout this country, and for much longer in many of the States, has been unable legally to obtain intoxicants, for the individual in my State and in many other States far removed from the beer rackets of New York and Chicago, who has grown to manhood without ever seeing a bottle of beer; and we are to decide, "without purpose of evasion," whether or not the alcoholic content of this beer you propose to legalize would be, for such an individual, intoxicating.

There are differences of opinion as to what constitutes intoxication. There is an old saying, which I will not undertake to quote except in substance, which runs something like this:

He is not drunk who from the floor
Can rise to take another drink,
But he is drunk who prostrate lies,
And can neither drink nor rise.

There is an incident related in some volume devoted to Wit and Humor of the Bar of a witness testifying in some case of alleged drunkenness in police court, who, when questioned as to whether the defendant was drunk on the occasion under investigation when he was lying helpless in a ditch, replied:

I don't think so, Judge. While he was lying there I saw him wiggle his little finger.

Even if such definitions of intoxication are relied on by those supporting this legislation, they will yet find great difficulty in feeling deep down in their hearts that this beverage they propose to legalize would not, if drunk to excess by a normal individual, produce even the characters of intoxication to which I have referred.

The majority report of the committee contains many naïve and amusing expressions in its effort to present a plausible explanation of a palpable proposal to evade the Constitution. It avers as a matter of fact, for which it cites no authority other than itself, that beer containing less than 3.2 per cent of alcohol by weight is not palatable, but in the same connection it sets forth that 3.2 beer is "said to be" nonintoxicating in fact. Apparently the committee has no knowledge on the last-named question, but must rely on hearsay, while on the matter of palatability of beers of lower alcoholic content it is positive. Proceeding, however, it unwarily casts off the cloak of virtue which first disclaimed knowledge of the intoxicating effect of 3.2 beer and asserts, again upon its own authority—

That it would require considerable effort on the part of an average person to drink enough to become drunk.

That it is practicable to drink enough to become drunk is recognized, but the drink is held nonintoxicating because it would take "considerable effort" to do so. Just how "considerable" the effort must be, how much power would have to be exerted to lift to the lips the requisite number of glasses or bottles, is not indicated. It does recommend, however, that for safety's sake the beer shall be drunk in limited quantities and with food. It is patent that it is the

opinion of the committee that unless its recommendations in these respects shall be observed, intoxication will result. It is also apparent that this new soft drink must only be sold to "average persons," and that if those who are not "average" get some of it and get drunk the committee washes its hands of responsibility in that matter.

But, after all, what is an intoxicating liquor?

Webster's International Dictionary says:

> There is no general agreement in the laws or decisions of the various States of the United States as to what constitutes an intoxicating liquor. * * * All courts take judicial notice of the nature of the ordinary intoxicating liquors, such as brandy, whisky, wine, beer, ale, gin, etc.

According to the decisions in my own State, to which, of course, I at least owe respect in determining my own course in this matter, intoxicating liquors are defined as follows:

> The expression "intoxicating liquors" as used in statutes, in the absence of other words tending to limit the meaning, may be defined as including any liquor intended for use as a beverage, or capable of being so used, containing alcohol, obtained either by fermentation or distillation, or both, in such a proportion that it will produce intoxication when taken in such quantities as may be practically drunk. (Mason *v.* State, 1 Ga. App. 534.)

That this bill will permit the sale of beverages which would have the effect referred to on normal individuals there can be no question. Else why is it desired at all? Why is it assumed that for a nonintoxicating drink, a soft drink, if you please, there would be such a tremendous demand as to bring, in addition to billions paid to the brewers, between three and four hundred millions into the Treasury of the United States? Is there a Member of Congress who really believes that this is a new formula for a soft drink, a nonintoxicating drink, being promulgated by Congress which will have such immense popularity without even a "kick" that its sales will aggregate billions within one year? Let no man who desires to be fair to himself and fair to his constituents insist that he believes such a thing. It is proposed to legalize the sale of intoxicating liquors and let the Constitution take care of itself. Anything less than that would certainly not satisfy those who are clamoring for beer, and to satisfy them involves, as I see it, the patent disregard of the Constitution and the oath of office that I have assumed. I am responsible for no other man's conscience; I am determining only my own action as an individual Member of Congress and stating the conclusions which compel me to oppose this bill.

Entertaining the views I do as to the constitutionality of this proposed legislation, I could not support it even if I favored its principle, and therefore a discussion of the wisdom of such legislation from my standpoint is perhaps unnecessary. However, I can not forbear saying that the removal of a billion dollars from the pockets of the American people for the benefit of the brewers and in order that these people, who will be largely of the poorer classes, may pay an additional three to four hundred millions into the Treasury of the United States is a poor way either to solve the problem of the depression or to carry out campaign pledges for the relief of the distressed millions of our population. This bill ought to be called "A bill for the relief of the brewers and of the large taxpayers of the United States." You know that the money which has been spent in propagandizing the wet cause in this country came from owners of bank accounts who had some other object in mind besides giving the workingman a drink. They had in mind digging out of the pockets of the plain, ordinary people money for taxes to relieve in part their own burdens—money that they would never dare ask Congress to take by tax legislation unaccompanied with the suggestion of a drink, and money, too, that must be accompanied by treble its amount for the pockets of the brewers. They had in charge of this propaganda one Henry H. Curran, head of the Association Against the Eighteenth Amendment, who has made for himself such a record and gained for himself such a reputation in influencing public sentiment that these same great financial powers have now hired him to enter on a campaign against the American veterans of the World War, humiliate them as grafters and bloodsuckers before our people, and smear the glorious picture of their services during the World War with the grime of character assassination en bloc. So far as I am concerned, I hold in contempt his activities in both capacities.

The advocates of this legislation were protesting within less than a year that never under any circumstances would they ever consent to the return of the saloon. Oh, no; they were just as much opposed to the saloon as the prohibitionists. Yet now they propose to legalize the beer saloon, and they also propose to continue their efforts to legalize hard liquor, and will then want, if they get that far, to sell it in the saloon. They say not—now; but the truth is, they want to go just as far as they can with the destruction of all restraints upon the liquor trade. And if they get the saloons, these gangsters and racketeers they are complaining about now will run them, just as they ran them before prohibition, just as they are running their beer and liquor rackets now. They are coming to Congress and in effect saying, "We are violating the law; you haven't stopped us, and you can't stop us; therefore, pass a law which makes our racket legal, and put upon us by law the stamp of law-abiding citizens, for we'll never try to get it any other way." And if we do it, then the next thing we do ought to be to legalize stealing and countless other offenses, in order that those who are now engaged by the thousands in these activities may not be further embarrassed by being regarded as criminals.

It should be remarked in passing that it is consistent with the policies of those who are seeking to bring about the destruction of our prohibition laws that they are unwilling to subject themselves to the restraint of orderly parliamentary procedure. The press of the country carried the information just prior to the convening of Congress that, since the subject matter of this bill would include proposals coming within the jurisdiction of both the Judiciary and Ways and Means Committees, it was the purpose of those behind the movement to have the two committees collaborate in its consideration. The main purpose of the bill, of course, is to amend the national prohibition act, a matter clearly coming within the jurisdiction of the Judiciary Committee. The tax feature is only incidental. The gentleman from Massachusetts [Mr. TREADWAY] in his minority report is authority for the statement:

> Obviously the reference of the beer bill to the Ways and Means Committee was a subterfuge to secure a favorable report from some committee, as it has previously been demonstrated that such a report could not be obtained from the Judiciary Committee, which has jurisdiction over prohibition measures.

I am not willing to assume responsibility for any position which might lead to the contention that, under the rules of the House, this bill could not properly have been referred to the Ways and Means Committee. Containing, as it does, subject matters within the jurisdiction of that committee in part, it was unquestionably within the discretion of the Speaker as to which committee should receive the bill. But at the same time I feel that it can not be doubted but that the principal changes in existing law intended to be brought about by the bill are matters within the jurisdiction of the Judiciary Committee, and that it could, therefore, have been more appropriately referred to that body. Certainly, if the spirit of the rules of the House is to be observed, there should not be considered in the House proposed changes in substantive laws provided for the enforcement of the eighteenth amendment without those changes having received the consideration of the committee provided by House rules for that purpose. Whether such consideration should have been effected by joint consideration of the subject matter by the two committees, as indicated by press dispatches emanating from Washington before Congress met, or by rereference to the Judiciary Committee for consideration of the parts of the bill coming within its jurisdiction, after the Ways and Means Committee had considered the tax features, I am not inclined to express an opinion; but I do say that legislative procedure by which the Judiciary Committee has been excluded from any opportunity to consider the parts of this bill coming under its jurisdiction is not, in my

judgment, in accordance with the spirit of the rules of the House. I leave to the gentleman from Massachusetts [Mr. TREADWAY] the work of divining why this procedure has been followed.

I believe that the methods which have been adopted in an effort to secure the enactment of this legislation by the present Congress will fail; but I believe, too, that these methods have had the effect of arousing the citizenship of our country as never before to the danger which now confronts our people from the activities of the organized and well-financed repealists, and that the final conclusion of the matter will be that our prohibition laws will be strengthened on account of this agitation and their more rigid enforcement brought about. If that shall be true, then the evils about which the wet propagandists have been complaining, in the form of speakeasies and blind tigers, will be reduced to the proportions of violations of other laws, as indeed could have been done already by proper and conscientious efforts at enforcement.

Mr. BACHARACH. Mr. Chairman, I yield seven minutes to the gentleman from Wisconsin [Mr. STAFFORD].

Mr. STAFFORD. Mr. Chairman, the main objective of this legislation is to stamp out of the national enforcement act the legislative lie that decrees that everything above one-half of 1 per cent of alcoholic content by volume is intoxicating and by so doing to remedy to a great degree the intolerable conditions now existing of unregulated and uncontrolled wild-cat brewery practices.

Another objective is to raise revenue that is now flowing into the tills of the racketeers, rather than the United States Treasury.

In the argument in the National Prohibition cases, as reported in Two hundred and fifty-third United States Supreme Court Report, it was generally agreed that the determination of one-half of 1 per cent as intoxicating was arbitrary and not based on fact. Even counsel for the Government admitted on the record that all alcoholic beverages above one-half of 1 per cent by volume were not intoxicating.

Now the country has had an election. The Democratic Party has declared itself not only in favor of the outright repeal of the eighteenth amendment but also in favor of the immediate modification of the Volstead Act. The different positions of the two major parties on this issue were controlling in many districts throughout the country. I can understand why Republican drys, coming from the Anti-Saloon League States, such as Ohio, should oppose this legislation——

Mr. MOUSER. Mr. Chairman, will the gentleman yield?

Mr. STAFFORD. I decline to yield; my time is limited.

And how Republicans, under the platform reservation that the individual candidate has the right to assert his individual views on this question regardless of the platform declaration, can oppose modification, but I can not understand those Democrats from the South and elsewhere deserting their platform promises and abnegating the solemn pledge that was given to the people that if they were given power they would vote for the immediate modification of the Volstead Act.

Mr. RAYBURN. Mr. Chairman, will the gentleman yield?

Mr. STAFFORD. I yield.

Mr. RAYBURN. What attitude does the gentleman think the southern Democrats should take who honestly believe this is a violation of the Constitution?

Mr. STAFFORD. Then I direct my good friend's attention to the interpretation of his own Texas Court of Criminal Appeals, found in Fiftieth Texas Criminal Reports, at page 368, where, in determining what were the intoxicating properties of beer, the syllabus says:

> In order to come under the violation of the local option law the State must show that the liquid alleged to have been sold was of sufficient alcoholic body to produce intoxication if drunk in reasonable quantities without reference to its name or supposed qualities.

That position is the same as that taken in New York in the case of Blatz *v.* Rohrbach, in One hundred and sixteenth New York Reports, page 450.

The gentleman, I know, will agree that all maltous beverages having more than one-half of 1 per cent by volume are not intoxicating.

Now, the determination of what is intoxicating or what is not intoxicating is not whether you can fill yourselves up like a glutton or a pig, but whether when taken in reasonable quantity under the customary conditions it is intoxicating, not whether it would be intoxicating to a child or a minor who is forbidden to receive it, but under the usual conditions in which these beverages are consumed.

In the discussion of this question a moment ago, when the question arose as to whether 3.2 per cent beer is intoxicating, I said I could qualify in view of my experience and of my observation during a period of two months four years ago in the Province of Ontario, at Windsor, where before that Province went wet they sold as a nonintoxicating beverage what was known as 4.4 beer by volume. That beer is generally conceded to be nonintoxicating. The beer authorized under this bill is only 4 per cent by volume, or 3.2 per cent by weight.

I wish to state in contravention of the position taken by the dry advocates on this floor when they say 3.2 is the same beer that was brewed prior to the Volstead Act, that the light beers brewed in Milwaukee known as Pabst Blue Ribbon and Schlitz in brown bottles was 3.8 per cent by weight; and the stronger beers were 4 to 6 per cent by weight, or by volume from 5 per cent to 7½ per cent.

The uncontroverted testimony before the Ways and Means Committee is that this alcoholic content of 3.2 per cent is nonintoxicating. I personally can qualify so far as 2.75 per cent by weight is concerned, because, as I said at the last session, I still have some 2.75 Kulmbacher, which was brewed prior to the Volstead Act by the Pabst Brewing Co. I know you will all want to come out to see me during the summer, and I shall welcome you all after the adjournment of Congress. This beer is not intoxicating, but it is a palatable beer; but the testimony before the Ways and Means Committee shows that beer with 3.2 per cent alcohol is more palatable because of the added soluble contents.

Mr. O'CONNOR. In connection with the statement of the distinguished gentleman from Texas [Mr. RAYBURN], does not the gentleman from Wisconsin think that we who have complained of usurpation of our powers ought to be the last ones to usurp the power of the Supreme Court to pass on constitutional questions, for the very reason that that is all the court is created for, and we could dispense with it if we were going to pass on the constitutionality of such measures?

Mr. STAFFORD. I agree that the Congress has the constitutional duty to define intoxicating liquors. In so doing we have the right to fix the alcoholic content at the percentage the expert testimony shows is nonintoxicating. I further agree that it is a legislative outrage, and the people at the last election so decreed, that all beverages above one-half of 1 per cent were intoxicating. The people issued a mandate to the Democratic party to rectify that legislative misnomer. But now we are astounded at the change of front from preelection times to a position to accord with the views of local constituencies.

Representative government is in the balance. If the solemn declaration in a party platform can be nullified by voting to adhere to a legislative anachronism making one-half of 1 per cent the limit, then the plighted faith of a great party counts for naught. No longer then can men and parties be depended upon to carry out the will of the people.

[Here the gavel fell.]

Mr. DICKINSON. Mr. Chairman, I yield 10 minutes to the gentleman from Massachusetts [Mr. MCCORMACK].

Mr. McCORMACK. Mr. Chairman, it is not my purpose to attack, directly or indirectly, any of those who are opposing this bill; neither is it my purpose to directly or indirectly make any remarks which might be construed as an attack upon those who are advocating the continuance of prohibition in its present form. I am and have always

opposed prohibition. It is my purpose to try to convey, as strongly as I can, to the Membership of the House the fact that the most powerful piece of evidence in the recent hearings was very seldom referred to before the Committee on Ways and Means. The most powerful piece of evidence that presents itself to the mind of each and every one of us to-day in the consideration of this bill is, "What is the state of mind of public opinion to-day in your district and in the United States on this question?" It is all right to argue along other lines, but the most powerful piece of evidence is the fact that this bill came out of the Committee on Ways and Means with a favorable report; and this bill will pass to-day or to-morrow, when it comes to a vote, in response to public opinion. And whether public opinion is correctly or incorrectly formed in the minds of some Members is immaterial; the fact remains that the bill has a favorable report and is receiving consideration as a result of public opinion as manifested in the election of November 8. There are many fine, honorable, and distinguished Members of this House who can testify to the fact that in their district public opinion on this question was a contributing cause or factor in their defeat; men whom we regret to see defeated; men of many years of service in the House; men of many years of service to their country, who can testify to the fact that it was public opinion on this question, in the main, that brought about their defeat in their districts last November.

Public opinion is the greatest force in American politics, and we can not afford to ignore its influence and its significance. Public opinion of America, once aroused, recognizes no opposition. It overwhelms all opposition. Public opinion is far greater in the United States than the President of the United States, greater than United States Senators and greater than Representatives in Congress. Public opinion is taken judicial notice of by our courts. It is the most powerful influence in American public life and it is the most powerful piece of evidence that attracts itself, undoubtedly, to the minds of many Members of the House during this debate.

Let our minds go back several months when substantially the same question was presented and submitted to the House on a roll-call vote. It was defeated by a very substantial vote, 238 to 169, as I remember it. In any event it was a decisive dry victory, although representing liberal progress. When the question, on a motion to discharge the Judiciary Committee from the consideration of the Beck-Linthicum resolution to repeal the eighteenth amendment, came up, that motion to discharge was also defeated by an overwhelming vote; and yet, when the course of six or seven months, the vote on the repeal question has completely been overturned in this body. Within a period of several months over 70 Members changed their vote on this question. The vote only a few days ago showed 272 in favor of repeal and 144 against repeal.

What brought about this vote? What brought about this change? It was the voice of public opinion, and Members of this House were justified in weighing such as a piece of evidence, at least, to assist them in the making up of their minds.

I recognize the right of every Member of this House to vote as his people want him to vote, although he may personally entertain a different opinion. In a sense, that is what a Member is here for, particularly if the opinion of his people has been rationally arrived at and if the opinion is more or less fixed; but as his people change their views, so is a Member also justified in considering that fact; and it is a fact that the people of many constituencies and districts throughout the country have changed their views on the prohibition question and that Members who voted dry several months ago saw fit, owing to this change of opinion, to change their vote and to vote in favor of repeal only a few days ago.

The same situation exists with reference to this bill. Public opinion is in favor of a change. Public opinion recognized the evils of preprohibition days, but public opinion also recognizes the evils which have developed under prohibition. Public opinion wants us to go back 12 years and start on the right path, on the true journey of temperance. Public opinion wants true temperance to be attained as a result of the influence of religion—I do not care what religion—any and all religions—exerting their influence upon the minds of the individual, and the individual responding voluntarily thereto as a result of the exercise of his or her free will.

And as public opinion responds to the influence of religion and other healthy influences, more and more drastic legislation can be enacted regulating and reducing the evils that may exist.

My friend the gentleman from New York [Mr. CROWTHER] called this bill "a legislative monstrosity," and the gentleman from Georgia [Mr. TARVER] called it "a legislative falsehood." I do not agree with such characterizations. But assuming they are correct, this bill is not the only legislative falsehood. This is not the only falsehood or the only legislative monstrosity. The Volstead legislation was a falsehood and a monstrosity. When, by its provisions, it undertook to tell the people that one-half of 1 per cent by weight was intoxicating in fact, it told a falsehood.

Even Bishop Cannon disagreed with that; and if you will turn to the hearings before the Ways and Means Committee, page 473, you will find where Bishop Cannon said:

> Well, I would say as far as I am concerned, I do not think it is intoxicating.

He said that in response to a question that I asked as to whether or not he thought that one-half of 1 per cent, as provided in existing law, was intoxicating in fact.

Prohibition was a failure from the time the Volstead Act was passed. It takes a number of years for public opinion to form. Public opinion is the main reason for the changes in the legislative consideration of this question. Public opinion demands a change. Public opinion is the most powerful evidence that is presented to you to-day in support of this bill. Public opinion, in my opinion, is the greatest piece of evidence that is presented for your mind and this body to-day.

I am surprised to see some of my friends refusing to carry out public opinion under the guise that a constitutional question is involved in the bill. This is a legislative body. The Supreme Court of the United States exists for the purpose of determining constitutional questions. The opinion of one Member on this aspect is as good as that of another Member. It is my opinion, for whatever value it may be worth, that the alcoholic content provided in the bill complies with the letter and the spirit of the Constitution. It is interesting in this connection to note that practically all, if not all, of the Members who advance this argument are those who consistently have voted dry. It is the dying effort of the small organized minority who have controlled the unorganized majority of the people of the country on this question for over 12 years. The Supreme Court of the United States is the only tribunal where a constitutional question can be definitely settled. My guess is as good as that of any other Member, and it is my guess that the Supreme Court will uphold the power of the Congress under the eighteenth amendment to pass the bill now under consideration. It is my opinion that the Supreme Court will uphold it as constitutional. We must bear in mind that there is a presumption running in favor of the constitutionality of a legislative act. I do not consider this argument as a serious one.

There are many other aspects of this bill that I would like to discuss, but my time limit, about to expire, will not permit me to do so. I close as I started out—that public opinion demands a change, that the voice of public opinion is the greatest influence in American politics—that this bill partially complies with existing public opinion, and that it is our duty, not only as legislators legislating for the best interests of the country but in response to public opinion, to pass this bill. [Applause.]

Mr. HAWLEY. Mr. Chairman, I yield six minutes to the gentleman from New York [Mr. STALKER].

Mr. STALKER. Mr. Chairman, since the Volstead Act was passed the law-abiding citizens of the Republic have be-

lieved that the eighteenth amendment was a part of the Constitution and that the provisions for its enforcement were necessary to carry out the behests of the people. Now it appears, on account of wet propaganda and the influence of the brewers, the thirsty politicians who have set themselves up as leaders of both political parties are willing to nullify our Constitution by declaring for a beverage that was considered for 50 years prior to the Volstead Act as being intoxicating liquor if it contained as much as 4 per cent alcohol by volume. It seems strange that after six Congresses have convened and adjourned it is just now discovered that 4 per cent alcoholic content in beer is not intoxicating. Chemists, doctors, and men of wide experience both from observation and indulgence in pre-war beer testify that in those days 4 per cent beer by volume intoxicated, as well as they now testify, after experiments and observation in its effect, 4 per cent beer still intoxicates.

To the minds of those insisting on this bill nothing can convince them but that it is nonintoxicating. So the Supreme Court will be called upon to determine an issue of fact, which is only done in extreme cases. It is the conviction and honest belief of millions of the representative citizens of the country that if 4 per cent beer by volume is permitted to return by the enactment of this bill enforcement of the Volstead Act will be practically impossible. To say that it would stop the bootlegging is mere sham. From the very nature of the business bootlegging will increase, and even a representative of the brewing interests made the statement that unless hard liquor is permitted to return nothing save a miracle will control the bootlegging industry.

Another matter to consider in this bill: The Federal Government is expecting revenue from the sale of beer estimated from $125,000,000 a year to $150,000,000 by tax experts. To obtain this amount the brewers are very willing to pay $5 per barrel, $1,000 per year license for being permitted to manufacture it. But what financial interest have the States who permit the sale of this beer in their jurisdiction? We are talking a lot about State rights in this matter, and only States that have nullified the Constitution by refusing to cooperate with the Federal Government will be permitted to sell this 4 per cent beer. Suppose they put a tax of like amount for their protection and their budget against the sale of beer. How much beer do you think the purchaser would get for his nickel? And surely if any jurisdiction should have the right to tax and receive the benefit therefrom, the States where the beer is sold should certainly be given an equal right to tax and receive revenue therefrom.

Should the so-called beer bill produce $150,000,000 in revenue per year, it will account for only about 3 per cent of our annual Budget. Enactment of a law such as is now being considered would at once bring conflict with the word, the meaning, and the spirit of the Constitution. We are bound by our oaths to support and defend this immortal document. Lawlessness is rampant throughout the land. Let us not practice it in the Halls of Congress. Let us not bootleg the Constitution. [Applause.]

Mr. BACHARACH. Mr. Chairman, I yield 12 minutes to the gentleman from Pennsylvania [Mr. ESTEP].

Mr. ESTEP. Mr. Chairman and members of the committee, I have not heretofore taken the floor to discuss the prohibition question or any of its phases, because I always believed that no action would be taken until such a time as the people back home realized that the law was a failure, and would indicate the fact that they desired its repeal.

The people back home spoke at the last election. Thirty-seven million of them supported both the majority parties, and both majority parties had declared for the elimination of the prohibition law.

As to the subject, whether 3.2 beer is intoxicating or nonintoxicating, I shall leave that to other speakers who have preceded me or who will later discuss the subject. Personally, I believe it to be nonintoxicating, that belief being based on the testimony given before the Ways and Means Committee.

Now, coming to the matter whether the bill will raise revenue, I do not believe that there is a Member of this Congress, whether he be for or against prohibition, who will not admit that this bill will produce a substantial sum in revenue which will go towards balancing the Budget, and if there was ever a time when money was needed to bring this situation about, it is right now.

If no revenue measure is passed this session we will have, according to the Treasury Department figures, a deficit of $307,000,000 for the fiscal year 1934, providing that all of the economy recommendations of the President are accepted and the nations of Europe who owe us money pay their installments in full in the amount of $329,000,000; any variation from this program will increase the deficit. We can already accept as a fact that only part of the $329,000,000 due from European debtors will be paid, probably not more than $150,000,000; thus the deficit will be $486,000,000. I do not believe Congress will follow the President's recommendations in their entirety so it would be safe to assume that our deficit will be at least $540,000,000.

The bill before us provides a way to raise part of the money needed.

You can not balance the Budget without passing this bill and collecting the revenues provided for therein.

Mr. Mills, Secretary of the Treasury, stated before the committee, page 564 of the hearings, that if a manufacturers' sales tax of 2¼ per cent was adopted it would only raise $220,000,000. Then if you continue the gasoline tax for another year an additional $140,000,000 would be raised. Then taking the Treasury figures for beer revenue of $150,000,000 you would collect $510,000,000, which takes care of the $307,000,000 deficit and allows a reasonable write-off for foreign debts. Thus the Budget is balanced.

The eighteenth amendment is going to be repealed, so why hesitate about legalizing beer to bring revenue and to put people to work in this hour of distress?

Congress to-day would not hesitate for a moment to pass any other law it had the constitutional power to pass that would bring in $200,000,000 in revenue and put 300,000 people to work. Why then try to defeat this bill in the face of public opinion that demands the repeal of the eighteenth amendment and the return of the liquor problem to the States, always, of course, reserving to the United States Government the power to tax.

Figures based on Internal Revenue Department reports show the volume of beer manufactured for several years prior to prohibition.

Year	Barrels	Rate of tax	Revenue
		To Oct. 22	
1914	66,189,000	$1.00–$1.50	$67,081,000
1915	59,808,000	1.50	79,328,000
1916	58,633,000	1.50	88,771,000
		To Oct. 3	
1917	60,817,000	$1.50–$3.00	91,897,000
1918	50,266,000	3.00	126,285,000
		To Feb. 24	
1919	27,712,000	$3.00–$6.00	117,839,000
1920	9,231,000	6.00	41,965,000

Mr. BOLAND. Mr. Chairman, will the gentleman yield?

Mr. ESTEP. Yes.

Mr. BOLAND. Is it a fact that many barrels of illegal beer are going through the State of Pennsylvania to-day without any tax at all?

Mr. ESTEP. Yes, absolutely; throughout the whole country. It is estimated by Mr. Doran, of the Prohibition Bureau, that from 16,000,000 to 20,000,000 barrels of illegal beer are now being manufactured and distributed in the United States.

From these figures and with a tax of $5 per barrel, it does not take much figuring to estimate the revenue that will result. The figures of 200,000,000 are based on a 40,000,000-barrel year, but I have no doubt that in two or three years it will double that figure.

In 1914 there was $858,861,000 invested capital in the brewing business.

What other industry would we undertake to outlaw or destroy with an investment of like amount?

The figures I have cited show only the direct revenue to be collected, but a business of this size must necessarily aid other businesses that furnish certain products or commodities to be used in the manufacture of beer or its distribution.

It is estimated that $360,000,000 will be spent within the next year to rehabilitate the brewing plants in the United States. This money to be spent with other industries, thus increasing their business and their income, which should accrue to the benefit of the Treasury in additional revenue.

Mr. O'CONNOR. Mr. Chairman, will the gentleman yield?

Mr. ESTEP. Yes.

Mr. O'CONNOR. In addition to the estimated revenues which the gentleman has referred to, of course, he should also estimate that the income tax will be increased from any profits made on all of these businesses.

Mr. ESTEP. Without doubt.

The 1914 Federal census of manufactures shows that the cost of material used in brewing and malting was $168,933,000.

The Rev. E. C. Dinwiddie, appearing for the opponents of this bill, undertook to show that the return of beer would not help agriculture. This same gentleman appeared before the Senate Committee on Agriculture in May, 1917, asking for absolute prohibition of the liquor traffic during the period of the war, and on that occasion he presented to the committee a statement signed by T. N. Crawford, Edmund E. Day, William S. Riley, and Edwin F. Guy, professors of economics, Harvard University, and Irving Fisher, professor of political economy of Yale University, in which they estimated the very least amount of foodstuffs that is being converted into alcoholic liquor for beverage purposes in this country to be the equivalent of that which is required by 7,000,000 men for one year. He further stated that if that is true, it would be sufficient to supply the armies of the allies in Europe for six months.

This seems to be the answer to the contention that agriculture would not benefit and comes from one opposed to the return of beer.

Mr. BACHMANN. Mr. Chairman, will the gentleman yield?

Mr. ESTEP. Yes.

Mr. BACHMANN. The gentleman has been a member of the Committee on Ways and Means that has had this bill under consideration. Will the passage of this bill legalize the manufacture of home-brew beer for personal use?

Mr. ESTEP. It will not, any more than it is legalized in the present Volstead Act.

Mr. BACHMANN. Then any man who is making home brew to-day will have to have a license at a cost of $1,000 a year.

Mr. ESTEP. He will not be able to get a license to manufacture home-brew. He can get a permit from the prohibition department to manufacture beer if he conforms to the other qualifications that department may require.

Mr. BACHMANN. If he uses it for his own personal use, must he have a license to make home-brew beer?

Mr. ESTEP. No; not any more than he has to have a license now under the Volstead Act.

Mr. BACHMANN. And if this bill is passed, is it legal to manufacture beer for his own use?

Mr. ESTEP. It would still be illegal.

Mr. BACHMANN. And how much home-brew beer is made in the United States to-day?

Mr. ESTEP. It is estimated from 16,000,000 barrels to 20,000,000 barrels a year. The term "home-brew" is a misnomer. Most of this beer is manufactured in alley breweries and sold to the public without paying any tax to the Government and in direct violation of the law.

Mr. Owen T. Cull, of Chicago, Ill., general freight agent for the Chicago, Milwaukee, St. Paul & Pacific Railroad, testified, page 113 of hearings, that his road would immediately benefit to the extent of from $2,000,000 to $2,500,000 per year, and that these figures did not take into account the hundreds of commodities in back of the actual brewery operation, such as cooperage material, steel, glasses, store fixtures, and the hauling of materials which will be needed at once for the building of the additions to present brewery units.

He estimated that his road handled 90,000 cars in and out of Milwaukee in 1917 resulting from the brewing business.

He estimated that the total revenue to all the railroads, based on a 40,000,000-barrel output per year, would be $50,000,000.

Business of this magnitude can not be lightly stifled or cast aside. It means too much to the Treasury, not only in this period of depression, but at all times, and it means at this particular time a godsend to hundreds of thousands of people needing the necessities of life which only work will give them. [Applause.]

Mr. COOPER of Tennessee. Mr. Chairman, I yield five minutes to the gentleman from Florida [Mr. GREEN].

Mr. GREEN. Mr. Chairman, it seems to me the primary thing for us to determine in this matter is whether or not the Congress has the power by statute to supersede the provisions of the Constitution. I do not believe it is a question of beer or no beer. It is a question of whether we can, under the Constitution, pass a bill which will legalize beer of alcoholic content of 3.2, or 4 per cent by volume.

In January, 1919, I believe, the required 36 States had ratified the eighteenth amendment to the Constitution, as follows:

> After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

This language speaks for itself and is still a part of the Constitution of the United States. On December 5, I voted to again submit this question to the American people, because the amendment was written in the Constitution through the will of the American people by their vote; and it is only fair, constitutional, and Democratic to permit the people to vote upon important questions. Through this right was the eighteenth amendment and other amendments written into the Constitution. As long as this provision is in the Constitution it is my duty to uphold it. Four times have I faced the Speaker of the House of Representatives and taken this solemn oath:

> I do solemnly swear that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I will take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

I shall, in all probability, soon be called upon to again take this oath as a Member of the Seventy-third Congress. Now, my friends, my duty in the premises is clear. I have sworn to uphold the Constitution, as Member of this great body, and to do it "without mental reservation or purpose of evasion." Shall I now evade this obligation by voting to abrogate this portion of the Constitution? I respectfully call to your attention the views of the minority members of the Ways and Means Committee. I have reference to the minority views filed by my colleagues on this committee, Messrs. HEARTSILL RAGON, MORGAN G. SANDERS, and JERE COOPER. These gentlemen, each experienced and learned member of the legal profession; each of recognized legal ability in his respective State, as they were distinguished prosecuting attorneys and judges before they were elected to Congress, say:

> MINORITY VIEWS OF MESSRS. RAGON, SANDERS, AND COOPER
>
> We have heard and read all of the testimony before the Ways and Means Committee relating to the proposed legislation on beer. Taking all of this testimony as a whole and duly considering same, we are of the opinion that the proposed bill is violative of the Constitution of the United States.
>
> Therefore we can not under our oath support this legislation.

We further submit that the proposed bill is not only in violation of the Constitution of the United States but of the Democratic platform which calls for the "sale of beer and other beverages of such alcoholic content as is permissible under the Constitution." The above quotation from the platform shows that it was not the intent of those framing the platform to declare for legislation which would be violative of the Constitution.

The very clear and definite proof before the Ways and Means Committee during the extended hearings on this bill shows conclusively that beer of alcoholic content of 3.2 which means beer of 4 per cent alcohol by volume, is intoxicating in fact and is the same type of beer which was generally produced and sold prior to the Volstead Act. The sale of such beer because of its alcoholic content is not permissible under the Constitution.

HEARTSILL RAGON.
MORGAN G. SANDERS.
JERE COOPER.

The Members of this great body who represent districts below the Mason and Dixon line should be the last ones to undertake to nullify the Constitution. These gentlemen believe that this bill is unconstitutional, and so do I, and unless it can be amended, bringing its provisions within the bounds of the Constitution, I shall be compelled to withhold from it my support. [Applause.]

Mr. SCHAFER. Mr. Chairman, will the gentleman yield?

Mr. GREEN. Not now. I am sorry I have not the time. Then, if it is not constitutional, why make an idle gesture.

[Here the gavel fell.]

Mr. DICKINSON. Mr. Chairman, I yield 15 minutes to the gentleman from Kentucky [Mr. VINSON].

Mr. VINSON of Kentucky. Mr. Chairman and gentlemen of the committee, this measure, H. R. 13742, is by its title "A bill to provide revenue by the taxation of certain nonintoxicating liquor, and for other purposes."

As reported from the committee, a tax of $5 per barrel of 31 gallons is levied upon beer and other similar fermented liquor when the alcohol therein is not less than one-half of 1 per cent, and not more than 3.2 per cent. In other words, beer with an alcoholic content of 3.2 per cent by weight, which is 4 per cent by volume, is removed from the operation of the national prohibition act as a nonintoxicating beverage.

Express provision shows with clarity that no authority is granted to manufacture any beverages with a greater alcoholic content than above stated.

The bill incorporates the language and likewise the purpose of the Webb-Kenyon law and the Reed bone dry law toward intoxicating liquors. The exact language of these regulatory statutes is found in this measure. The bill very clearly divests the beverages under discussion of their interstate character and prohibits the shipment or transportation thereof into any of our national domain where the law of such State, Territory, or District of the United States or place noncontiguous to but subject to the jurisdiction thereof, makes it violation of law to receive, possess, sell, or in any manner use any beverage with such alcoholic content. Restated, the Webb-Kenyon language is included herein as applicable to the beverage under discussion.

The penalty for the violation of the provision aforesaid is the same penalty prescribed in the Reed bone dry act, namely, a fine of not more than $1,000 or imprisonment not more than six months, or both, and for any subsequent offense imprisonment for not more than one year.

The points to be discussed are:

First. The constitutionality of this measure—whether a beverage of alcoholic content 3.2 per cent by weight or 4 per cent by volume is nonintoxicating under the language of the eighteenth amendment.

Second. Present use of beer with much larger alcoholic content.

Third. The revenue feature of this bill.

Fourth. My personal situation in respect of the proposed legislation.

THE CONSTITUTIONALITY OF THIS MEASURE—WHETHER A BEVERAGE OF ALCOHOLIC CONTENT 3.2 PER CENT BY WEIGHT OR 4 PER CENT BY VOLUME IS NONINTOXICATING UNDER THE LANGUAGE OF THE EIGHTEENTH AMENDMENT

It is my firm belief that in a fermented beverage containing solids, such as is under discussion, alcohol in ratio of 1 to 24 is nonintoxicating in fact. I am convinced, after giving careful attention to the testimony of the witnesses and with careful study of their evidence after it was reduced to the printed page, that we are legislating for nonintoxicating beer. This conclusion will never be reached by one who would consider an amber fluid in a standard-size beer bottle containing one-half of 1 per cent alcohol to be intoxicating. Many sincere people who appeared before our committee opposing this measure would have the same feeling of abhorence in seeing the present near beer being consumed as if it were high-powered illicit beer containing 7 per cent alcohol. We must decide whether beer 3.2 per cent by weight is intoxicating in fact.

We heard eminent witnesses and scientists testify as to the effect of this beverage. A very eminent Yale professor, Mr. Yandell Henderson, who appeared to be a very sincere gentleman, was certain that beer containing 3.2 per cent alcohol by weight was nonintoxicating. He testified that 2 ordinary glasses of such beer would have no more effect upon the average individual than 2 cups of coffee or 1 strong cigar. Likewise, Doctor Stengel, with more than 40 years' experience, actual experience in observation of alcoholic effects from a practical viewpoint, testified that it is a nonintoxicating beverage.

The opponents of this measure spent practically their entire time in the discussion of the repeal amendment and the evils attendant in the preprohibition days. It needed no argument with me as to the condition which prevailed then. I objected to it then; I object to the return of such condition. I was a sincere, personal dry in the fight for prohibition. I am a sincere, personal dry at the present time. In the old days I could not escape the intolerable condition that obtained. At this time I can not escape the intolerable condition which exists to-day. I believe that the enactment of this legislation, with its proper enforcement, will better the conditions with which the prohibition forces are concerned.

No thinking individual can read the hearings before our committee and fail to see that the opponents of this measure ascribe to beer drinking all the conditions and evils that actually came from the drinking of hard liquor. Then they fail to realize the conditions that prevail to-day with respect to the use of intoxicating beer. Proof before our committee uncontradictorily shows that the beer in the pre-Volstead day contained an alcoholic content greater than that provided herein. Different beers contained different amounts. Mr. Busch, head of the Anheuser-Busch (Inc.), states that Budweiser beer contained 4.50 to 4.70 per cent. Congressman STAFFORD, of Milwaukee, where the Pabst and Schlitz beer was made, testified that Pabst Blue Ribbon and Schlitz Atlas contained 4.8 per cent. There is no contradiction that the light ale made in those days contained 6, 7, and 8 per cent alcohol. In consequence of which it is proved beyond question that the beer herein considered will contain considerably less alcohol than the beers discussed by the opponents.

I can remember the 2.75 per cent beer, permitted just before the passage of the Volstead law. The evidence of those who drank it was unanimous that it was far below the standards of the old beer. The difference in alcohol by volume between that beer and the 3.2 per cent beer under discussion is one-half of 1 per cent. That difference is considerably less than the difference between the alcoholic content of the beer to be manufactured under this law and the beer that was sold and used in pre-Volstead days. That difference ranges from one-half of 1 per cent to 4 per cent.

I have no quarrel with the sincere purpose of the opponents of this measure. Naturally, none of them had personal testimony to give in respect of its intoxicating effect. They testified from results that they had seen in the old régime, unable, of course, to allocate the proper burden to beer. And, just as naturally in their sincerity, they feared the revival of the conditions of former days.

The testimony without contradiction shows that alcohol in solution loses its intoxicating power as its proportion in the

solution becomes smaller. The greater dilution the less intoxicating effect. Likewise, without question, it is shown that alcohol is less intoxicating if it comes in contact with solids.

With the present beverage containing 4 per cent by volume of alcohol, we find that the alcohol is in ratio of 1 to 24 with the remaining fluid and solids in the beer. To-day I took an average-sized tumbler, such as I have in my hand. It holds about 50 teaspoonfuls of water. Four per cent of this glass of water would be two teaspoonfuls. Now, pour the water out. Put two teaspoonfuls of water back into the glass. It can hardly be seen in the glass. The original Collier bill was 2.75 per cent by weight. The alcoholic content was increased to 3.2 per cent. I voted against the amendment increasing the alcoholic content. My reason for it was the fact that the proponents of the measure last winter were willing to take 2.75 per cent. However, I feel that the beverage herein is nonintoxicating in fact, so I am consistent. But still referring to this tumbler of water, the extra 0.54 of 1 per cent of alcohol in the 3.2 per cent would be one-fourth of a teaspoonful of alcohol to the 48 teaspoonfuls of water.

Mr. BACHMANN. Will the gentleman yield?

Mr. VINSON of Kentucky. I yield to my friend from West Virginia.

Mr. BACHMANN. The gentleman is a member of the committee that has prepared this bill. If 3.2 per cent manufactured beer is nonintoxicating, as the gentleman has just stated, then why deprive the man who makes home-brew containing 3.2 per cent alcohol?

Mr. VINSON of Kentucky. I do not understand that this changes the law except to make legal alcoholic content less than the present manufactured home-brew.

Mr. BACHMANN. Yes; it does.

But does the gentleman think it is fair to say to the people of this country, "You must buy and drink 3.2 per cent manufactured beer but you can not make 3.2 per cent beer yourself for your own personal use"?

Mr. VINSON of Kentucky. I will let the gentleman answer that. I want to get to Doctor Miles's testimony. This gentleman, a professor in Yale, on eminent authority is said to know more about alcohol and its effect upon the human system than any other American. I submit to the House that we can take his testimony and read it in reason and prove by his testimony that 3.2 per cent beer is not intoxicating in fact.

Mr. MICHENER. Will the gentleman yield?

Mr. VINSON of Kentucky. I decline to yield. I must hurry along.

Mr. MICHENER. I wanted to know about Doctor Miles. Who is he?

Mr. VINSON of Kentucky. Doctor Miles is a professor in Yale University.

Mr. MICHENER. Who got him to appear before the committee?

Mr. VINSON of Kentucky. The opponents of the measure, by special invitation.

Mr. MICHENER. That is what I wanted to know.

Mr. VINSON of Kentucky. And I say to you again, you can take his testimony and prove conclusively that 3.2 per cent beer is not intoxicating in fact.

Dr. Walter R. Miles, professor of psychology, Yale University, was invited before the committee to testify in opposition to the measure. It seems that back in 1921 he made certain experiments with eight young men to find out the effect of alcohol upon them. In the first place, he did not use a brewed beverage. He took grape juice and added the raw alcohol 2.75 per cent by weight to it. The dose used was a pint and three-fourths within a 20-minute period. It created an increase of pulse rate of 3.4 beats per minute. It created an increased temperature of the skin of about 1 degree. It created a one-fifth change in steadiness. Then there was some test in regard to electric current, the exact result of which I am unable to state.

In connection with the increased pulse beat and temperature, Doctor Miles admitted that a pint of coffee or a strong cigar would cause a similar increased pulse beat and temperature. But he stated with reference to mental alertness that it would be a matter of impression and he would not care to state his personal impression or personal opinion of any change in that respect. He did say, however, in answer to a question by me, that the effect was imperceptible unless you were looking for it. The question was:

I understand, Doctor, if you had not been looking for this condition you might probably not have noticed it?

Doctor MILES. That is correct.

It should further be stated in connection with Doctor Miles's testimony, not only was the experiment in grape juice but it was conducted two and one-half to three hours after the last food was eaten. Under the normal course of digestion there would have been very little, if any, food in the stomach at the time the test was made. With further reference to the relative effect of drinking a cup of coffee, Doctor Miles stated:

If both individuals were equally unused to the drugs (alcohol and coffee), both these substances would probably be disturbing, because it always takes the body a certain time to become used to taking substances into it; but the coffee effect and the alcohol effect might seem to register as about the same on the pulse stream, but their mechanism of doing it is entirely different.

But, in my humble opinion, Doctor Miles proved conclusively that as a practical proposition, 2.75 per cent and 3.2 per cent beer is nonintoxicating. Doctor Miles testified with relation to an extended test in Sweden by a distinguished scientist of that country. He had taken blood tests of a large number of people who had been hailed into court because of arrests made in connection with vehicular accidents. He found 1 part alcohol to 1,000 parts of blood in their blood stream. This was sufficient alcoholic content in the blood stream to cause intoxication, according to Doctor Miles and the Swedish scientist. However, only one-third of the individuals subjected to this test were found by the court to be intoxicated. Two-thirds were adjudged not to be intoxicated.

Doctor Miles's extensive test in 1921 with 1¾ pints 2.75 per cent beer showed thirty one-hundredths of 1 part alcohol to 1,000 parts blood. He stated it would require three and one-third times that amount of beer—1¾ pints—to show the one part alcohol in the blood stream. So, according to him, it would require 5$\frac{12}{25}$ pints of 2.75 per cent beer to produce such effect. This would have to be drunk in 20 minutes.

According to Doctor Miles's statement, it would be necessary to drink 5$\frac{12}{25}$ pints of beer, 2.75 per cent by weight, to get the amount of alcohol in the blood that brought about, in blood demonstration, one-third drunkenness. The standard-size beer bottle is 12 ounces. Five and ten-twelfths pints will fill seven and seventy-seven one hundredths 12-ounce beer bottles—almost eight bottles. It will be said that it would not require so much 3.2 per cent beer. With 3.2 per cent beer, it would require 5.04 pints, or 6.72 bottles containing 12 ounces, to produce the one part alcohol in the blood stream. In other words, it would require almost seven bottles within 20 minutes to get this result, always keeping in mind that with this result obtained only one-third of the subjects were found to be intoxicated in fact.

So we submit that Doctor Miles makes a very strong witness in favor of the nonintoxibility of this beverage. A slight stimulation in pulse beating and the slight increase in the temperature of the skin certainly can not be held as intoxication under any reasonable definition thereof.

Doctor Henderson, of Yale University, in testimony before our committee, says:

If no alcoholic beverage other than 4 per cent beer were known, the alcohol problem would be no more serious than the problem of tobacco.

Further, he testified:

Spirits are as intoxicating as morphine. On the other hand, a glass of beer is less intoxicating than a cigar. Beer of less than 3 per cent alcohol is not palatable. Beer of 6 per cent or more alcohol may be distinctly intoxicating if drunk in large amounts. Beer of about 4 per cent is not appreciably more intoxicating than an equal volume of coffee. The dilution of the alcohol in 4 per

cent beer is such as virtually to prevent the drinking of a sufficient amount to induce a condition that can properly be defined as intoxication.

Doctor Henderson suggested that the problem of alcohol was to separate the sale of the intoxicating liquor, the distilled spirits, such as whiskey, rum, gin, brandy, from what he termed "the fermented beverages in which light beer is included."

With reference to the dilution greatly reducing the effect of alcohol he illustrated with other substances. We quote from Doctor Henderson:

Strychnine, for instance, is a convulsive poison; it causes convulsions and death, but it is very commonly used in minute amount in cathartic pills, and is a useful and effective drug. Morphine and codein are narcotic poisons, but used in small amounts they are not only harmless but useful. * * * Tetraethyl lead is a terrible poison. Diluted to the extent it is in gasoline, in ethyl gasoline, there has not yet, so far as I am aware, been a single case of demonstrated poisoning. So that dilution makes not only a quantitative but an absolutely qualitative difference.

Doctor Stengel, of the University of Pennsylvania, gives about as good a definition for intoxication as any we have been able to find. He said that what we usually mean by "alcoholic intoxication" is the "lack of coordination of muscular power and the disturbance of cerebral action of brain." In that connection the doctor said that he had never seen such effect as that from beer drinking.

PRESENT USE OF BEER WITH MUCH LARGER ALCOHOLIC CONTENT

It is assumed by the opponents of this measure that this legislation would bring back beer into this country. The uncontradicted evidence proves that the consumption of beer is practically the same to-day as it was immediately preceding the Volstead Act.

Official figures show that in 1919, the last year before the eighteenth amendment went into effect, there were 27,712,000 barrels of beer consumed in this country. Mr. Woodcock, Prohibition Commissioner, testified relative to the year ended June 30, 1930, and stated that there was more than 680,000,000 gallons of home-brew containing more than 3 per cent alcohol made in the homes of American people. Reduced to barrels, this would mean about 22,000,000 barrels. I think it is only fair to assume that Mr. Woodcock's estimate naturally would be low. Another informative statement that would throw some light upon the home-brew manufactured and consumed, is the testimony of Mr. Montfort, representing the Crown Manufacturers Association of America. The members of his association, according to his statement, in the year 1931 sold 38,779,191 gross of home-use crowns; that means 5,584,203,404 individual crowns. The alcoholic content in this illicit home-brew ranges from 6 per cent to 8 per cent by weight.

It can be seen at a glance that, according to Mr. Woodcock's statement, to-day there is more alcohol consumed in the high-powered illicit beer than was consumed in the legally manufactured beer of 1919. There is more alcohol consumed in the home-brew of to-day than there will be in the entire 2-year production of the beer permitted in this bill. I believe it to be a conservative statement that the alcohol in the home-brew manufactured and consumed in this country in the 12 months next last past totals more than twice as much as will be contained in the beer manufactured in the 12 months following the enactment hereof. Assuming that the illicit home-brew contains 6 per cent by weight, no testimony shows that it could be less than that, and assuming that Woodcock's figure has not increased you have 520,000 more barrels of alcohol consumed in the illicit home-brew than in the permitted beverage under this bill for same length of time.

Consequently, in relation to the use of alcohol we respectfully submit that there will be less alcohol consumed and less harmful effect, from the beer permitted hereunder, than now flows from the bootleg beer with its much higher alcoholic content.

THE REVENUE FEATURE OF THE BILL

I favor the securing of the largest revenue possible under this bill. I am not at all in sympathy with the effort made to reduce the tax below the present figure of $6 per barrel. As a matter of fact, last session, the so-called wet group agreed upon a tax of $7.50 and introduced a bill carrying that amount. With the testimony of Mr. Huber, representing the United States Brewers' Association, he filed a newspaper interview on December 3, 1932, with Augustus A. Busch, president of the Anheuser-Busch (Inc.). Throughout that statement he treated the tax at $6 per barrel.

Proof was offered relative to the cost of the beverage. According to Mr. Huber's own statement the cost was $6.26 per barrel delivered to the point of consumption. Undoubtedly his cost prices were, as he frankly stated, inclusive of all costs. It is probably safely high. Even so, he thought that the dealer would make between $12, $13, and $14 per barrel, gross profit. The difference between $5 and $6 tax on an 8-ounce glass of beer is one-fifth of 1 cent. The dollar difference per barrel will mean added revenue in as many million dollars to the Treasury as there are barrels sold. As a matter of fact, I am inclined to think Mr. O'CONNOR, author of the beer bill last session, is right in advocating the $7.50 rate. That would return an additional $37,500,000 the first year. And a total of $62,500,000 above the tax received from the $5 rate.

MY PERSONAL SITUATION IN RESPECT OF THE BILL

Until these hearings were held I had no exact information relative to the alcoholic content of beer or its intoxicating effect. We have had scores of witnesses before us. I think the proof is overwhelming from those who testify as to facts rather than well-intentioned conclusions that 3.2 per cent beer is nonintoxicating and therefore within the constitutional limits. Having reached this conclusion, I feel constrained to support this measure. I was a candidate for Congress from the State of Kentucky at large in a Democratic primary in August. I received the nomination and was a candidate on the Democratic ticket from the State at large in the November election. The Democratic platform adopted in Chicago was explicit and unequivocal in its language in respect of the eighteenth amendment and the modification of the Volstead law. I quote from the platform:

Pending repeal, we favor immediate modification of the Volstead Act to legalize the manufacture and sale of beer and other beverages of such alcoholic content as is permissible under the Constitution and to provide therefrom a proper and needed revenue.

I feel that as a Democratic Member of Congress from Kentucky I am bound by this provision in its platform. I thought so at the time it was adopted and made public statement before the State-wide primary that I was standing upon the Democratic platform. In addition thereto I made specific statement relative to my attitude toward the submission of a repeal amendment to the American people for their deliberation and conclusions. I made specific statement relative to the modification of the Volstead law within the constitutional limitations set forth in the platform. With such pronouncement, verbal, written, and carried in the press, I was nominated. I repeated my position after primary, both in regard to repeal and modification, verbally, by letters, in the press, and on the stump. I do not feel that the election in Kentucky was determined solely or even in major part by the liquor issue, but I do believe that a party should keep its platform pledges. [Applause.] I do believe that they should be performed or a good-faith effort made for their fulfillment. Likewise, I believe that a candidate for office should keep his campaign promises. Otherwise the people would be justified in looking toward candidates for office, as many do—just as slick politicians wanting a job. When justification for such attitude arrives, then our Government and its institutions are in danger.

As stated, I was elected not from the old ninth district of Kentucky, nor the new eighth district as it now stands, but I was nominated and elected by the electorate of the State of Kentucky. I conscientiously believe that the people of my State favored the Democratic platform. They were not satisfied with Mr. Hoover's efforts on prohibition or anything else.

Consequently, I feel that in consideration of this measure when once I became convinced of the nonintoxicating effect of the alcoholic contents herein, that I am duty bound to support it as a party measure for which pledge was given. Something has been said about inviting the brewers here. I never heard of any special invitation. None was given. I have checked this carefully. There were no more invitations given to the brewers interested than there were for the splendid ladies and gentlemen opposing the bill. Open hearings were agreed to be held. Press statements to that effect were given. It might well be noted that the brewers needed no invitation. Only five persons representing brewers testified before the committee. Then, there were five persons representing wine growers who also appeared upon the wine question. All told, there were 66 persons who testified in favor of the bill, which number included 21 Congressmen. There were a total of 52 persons who testified against it, including 2 Congressmen.

WINE BILL

In the bill as originally drawn, there was a section permitting the sale of wine made from natural fermentation. There were quite extensive hearings. The proponents endeavored to show that if taken with food it was not intoxicating in fact. It was clearly developed, however, that the alcoholic content in this measure reached 14 per cent and that it was intoxicating. It was my belief that such wines were intoxicating in the meaning of the law and I voted to strike said provision from the bill. This motion prevailed.

Thereafter, a separate bill was introduced and considered but it was not reported from the committee. For the reason above stated, I voted against the reporting of said bill from the committee. I do not think that it came within the language of the platform as it being a nonintoxicating beverage.

THE CONTROL FEATURE

In the committee I offered an amendment requiring any person who sold or offered to sell the permitted beverage in less quantity than 5 gallons at one time to secure a permit under the national prohibition act which would permit him to engage in such business. It was to be a condition of such permit that such fermented liquor could not be sold or offered for sale in any place of the character commonly known as a saloon, or in any place where there is sold or offered for sale any intoxicating liquors as defined in the national prohibition act, as amended, with provisions of the penalties carried in the national prohibition act for simple violations. This amendment was voted down—11 for the amendment and 12 against it. In addition to my own personal views relative thereto I am endeavoring to comply with the Democratic platform for the year 1932, which I quote:

> We advocate the repeal of the eighteenth amendment. To effect such repeal we demand that the Congress immediately propose a constitutional amendment to truly representative conventions in the States called to act solely on that proposal; we urge the enactment of such measures by the several States as will actually promote temperance, effectively prevent the return of the saloon, and bring the liquor traffic into the open under complete supervision and control by the States.
>
> We demand that the Federal Government effectively exercise its power to enable the States to protect themselves against importation of intoxicating liquors in violation of their laws.

While the discussion of the saloon in the platform refers to the condition that will apply subsequent to the repeal of the eighteenth amendment, yet I feel that some similar provision should be incorporated herein.

For purpose of information, I insert herein the amendment which I propose to offer when the bill is being read for amendment.

> SEC. —. Any person who sells or offers for sale any beer, ale, porter, or similar fermented liquor, containing one-half of 1 per cent or more of alcohol by volume and not more than 3.2 per cent of alcohol by weight, in less quantities than five gallons at one time shall, before engaging in such business, besides qualifying under the internal revenue laws, also secure a permit under the national prohibition act, as amended and supplemented (including the amendments made by this act), authorizing him to engage in such business, which permit shall be obtained in the same manner as a permit to manufacture intoxicating liquor and be subject to all the provisions of law relating to such a permit. It shall be a condition of a permit that such fermented liquor shall not be sold or offered for sale in any place of the character commonly known as a saloon or in any place where there is sold or offered for sale any intoxicating liquor as that term is defined by section 1 of Title II of the national prohibition act, as amended and supplemented (including the amendments made by this act). No permit shall be issued for the sale or offering for sale of such fermented liquor in any State, Territory, or the District of Columbia, or political subdivision of any State or Territory, if such sale or offering for sale is prohibited by the law thereof. Whoever engages in such business without such permit, or in violation of such permit, shall be subject to the penalties provided by law in the case of similar violations of the national prohibition act, as amended and supplemented.

Mr. O'CONNOR. Mr. Chairman, will the gentleman yield?

Mr. VINSON of Kentucky. I yield.

Mr. O'CONNOR. Of course, liquor of other alcoholic content can not be sold at all, and this beer is an intermediary step until the eighteenth amendment is repealed.

Mr. VINSON of Kentucky. Yes. But my amendment would provide that when liquor of alcoholic content greater than this was illegally sold at the same place this beverage was sold, then the permit to sell this beverage would be canceled and the right to sell it would be taken away from that particular individual, together with infliction of penalty of the law.

Mr. O'CONNOR. I am for that. I do not want to see it sold illegally.

[Here the gavel fell.]

Mr. HAWLEY. Mr. Chairman, I yield 15 minutes to the gentleman from Kentucky [Mr. FINLEY].

Mr. FINLEY. Mr. Chairman, I am opposed to enactment of the pending bill for more reasons than my time will allow me to state.

I am opposed to its enactment because when I became a Member of this House I lifted my hand and solemnly swore to support the Constitution of the United States; and I find in that document a provision forbidding the manufacture, transportation, or sale of intoxicating liquors for beverage purposes within the jurisdiction of the United States. I know that proponents of the bill profess to believe that beer, lager beer, ale, and porter of 4 per cent alcoholic content by volume is not intoxicating. Have wets discovered or invented a new and improved definition of the word "intoxicating?" Four per cent malt liquors were intoxicating, according to the definition of the word then in use in preprohibition days. No theories of obliging physiologists or self-styled experts can alter that fact. Thousands of those who remember those days can testify to it. By what sort of wet hocus pocus do beverages which were intoxicating only a few years ago become nonintoxicating now? Why will wets bury their heads in the sand and fancy themselves hidden, while their tail feathers wave in the midday breeze? Why will they pretend not to know what everybody knows they do know? If they did not know, and if they do not now know that 4 per cent malt beverages are intoxicating, why does this bill make a feeble pretense of protecting dry States from their invasion? If nonintoxicating in fact, why protect dry communities from them any more than from soda pop, ginger ale, mineral water, or near beer? The bill itself proclaims louder than any denials that wets recognize 4 per cent beer, lager beer, ale, and porter as intoxicating. Furthermore, the bill and report present rosy estimates of the revenue to be derived from the traffic in 4 per cent malt beverages. On what are those estimates based? And why?

Why would revenue derived from 4 per cent malt beverages exceed that ever derived from one-half of 1 per cent malt beverages? There can be but one answer to that question—because there would be more of it consumed. And why would more of it be consumed? Are not the constituents of the two beverages identically the same except for the difference in alcoholic content? And why do proponents of the bill expect more 4 per cent beverages to be consumed than of the one-half of 1 per cent? The answer to that lies on the surface—because the 4 per cent beverage will "make the drunk come"; the other will not. Thus do wets show their belief that 4 per cent malt beverages are

intoxicating by their estimates of revenues deriving from their traffic. I can not violate my oath and stultify myself by voting for a measure whose authors and advocates thus confess that it would violate the Constitution of the United States, which I have sworn to support.

I am opposed to enactment of the bill because it repudiates the platform pledges of both the Republican and Democratic Parties. Both of those parties solemnly declared against return of the saloon. This bill, if enacted into law, would make a saloon of every grocery store, every drug store, every tobacco shop, every barber shop, soda fountain, ice-cream parlor, filling station, blacksmith shop, and every other business place whose owner could pay a nominal license. Instead of preventing return of the saloon this bill would create saloons by the thousands. I undertake to say that no more flagrant repudiation of platform pledges has ever been proposed than is carried in this bill. This country needs for its safety and perpetuity two great political parties that will keep faith with the people, parties whose platform pledges are more than "mere scraps of paper," parties that will keep their covenants with the people as sacredly as they were solemnly made. Is the Democratic Party one of those parties? Is the Republican Party another?

I am opposed to enactment of the bill because it proposes to transfer tax burdens from multimillionaires to the already bending backs of the impoverished and unemployed.

I am opposed to enactment of the bill because it would mean less food, less fuel, less clothing, less medicine, less everything needed in the homes and by the families of the poor. The dollar can not, at the same time buy booze for the husband and father and bread for the wife and children.

I am opposed to enactment of the bill because it would make our Government a party to and a partner with the brewing interests in corrupting the politics and debauching the people of our Nation. If any man doubts the soundness of that reason let him read a report on the practices of the brewing interests before and during the World War. That report was made by a subcommittee of the Judiciary Committee of the United States Senate pursuant to Senate Resolution No. 307, adopted on September 19, 1918, ordering an investigation of such activities. Can the leopard change its spots? Can a business which prospers in proportion as it debauches our Government and debauches our people cease to be what it inherently is?

I am opposed to enactment of the bill because it is the nose of the liquor camel, seeking entry into the tent. Behind that nose are the body and the whole weight of the interallied, world-wide liquor interests. Already that weight has made itself felt in influential circles. The campaign for legalized malt beverages before the recent election was for 2.75 per cent beer, not to be drunk on the premises where sold. This bill proposes to legalize 3.20 per cent malt beverages—an increase of more than 16 per cent—and to permit their consumption wherever sold. The weight of the camel is beginning to be felt. What and when will the next move be?

I am opposed to enactment of the bill because beer stupifies the human brain and stagnates the human mind. No picture was ever painted, no statue was ever chiseled, no speech was ever made, nothing was ever written, no music was ever composed under the influence of beer that has a place in music, literature, science, or art. Nothing of outstanding or enduring worth or merit has ever been created, produced, or done under the influence of beer. Theodore once said that there is not a thought in a hogshead of beer nor an idea in a whole brewery. I might add that no addict of beer has ever been an outstanding athlete in any line.

I am opposed to enactment of the bill because 4 per cent beer, ale, and porter slow down the reactions and impair the coordinations of the drinker. Under their influence the drivers of 25,000,000 automobiles, trucks, and busses, the pilots of thousands of airplanes, and the engineers of tens of thousands of railroad trains and boats would be a constant menace to the public and each other. In thousands of cases daily the difference of a fraction of a second in action is the difference between life and death. This bill should be entitled "A bill to decimate population and destroy property in the United States."

I am opposed to enactment of the bill because it proposes to give a certificate of good character to what, in preprohibition days, was the companion and associate of the brothel, the cheap beer garden, and the low dance hall, with all their drunkenness, immorality, and ruin. Propagandists have adorned 4 per cent malt beverages with the alluring and deceptive words "nonintoxicating," "harmless," "healthful," and "wholesome." This bill sanctions that deadly fraud and extinguishes any danger light swung before the eyes of youth and inexperience by father, mother, older brother, or friend. Here, perhaps, is the greatest iniquity of this iniquitous bill, that it would give the sanction of this Congress and this Government to the pretense that an intoxicating, deadly, habit-forming beverage is nonintoxicating, harmless, healthful, and wholesome. If enacted into law, the bill would spread a net for the youth of our Nation, would enmesh their feet in an acquired liquor habit, and assure that the next will be a generation of drunkards. And all in the name and for the sake of revenue. Could anything be more heartless or wicked?

I am opposed to enactment of the bill because any revenue derived from such a traffic, and in such a manner, would be blood money and unfit for the Treasury of any God-fearing people. Judas returned the 30 pieces of silver—the revenue—to those who had bribed him to betray his Master. Even he could not put it in the bag. The chief priests, who had plotted and procured the murder of Jesus, said, "It is not lawful to put this money—revenue—into the treasury; it is the price of blood," and bought a potter's field with it. This bill proposes—for revenue—to deliver the youth of our country for the crucifixion of its ambitions, its aspirations, its high hopes, and its noble purposes. Such revenue would be the price of blood. Neither the traitor Judas nor the murderous chief priests would permit such revenue to enter their treasury. Is this Congress as self-respecting as Judas and the chief priests?

Mr. CHINDBLOM. Mr. Chairman, I yield five minutes to the gentleman from New York [Mr. LAGUARDIA].

Mr. LAGUARDIA. Mr. Chairman, for 10 years I have been fighting for the repeal of the eighteenth amendment to the extent, in many instances, of having made myself tiresome and in many instances annoying to many of my colleagues. I do not want to see our efforts and 10 years of this costly, unsuccessful experiment on prohibition and the fight against it destroyed by any hasty action on the bill before us.

I want to suggest to the proponents of the bill to put every possible safeguard into the bill and to directly put the responsibility of regulation of the traffic of liquor authorized in the bill on the States.

It has been seen and we have learned that national prohibition is a failure because of the impossibility of enforcement. National prohibition has been a failure because public opinion in many States and in many sections of the country is against national prohibition, refused and refuses to accept it, and no law without the support of public opinion can be enforced. Regulation of liquor traffic is a local problem. It has now been agreed by almost every authority in the country that it can only be regulated and controlled by the locality in accordance with the wishes, viewpoint, habits, and custom of the people of this locality. That is why repeal of the eighteenth amendment is necessary. Once the eighteenth amendment has been repealed, then every State will necessarily have to decide the question for itself and enact its own State laws regulating the traffic in liquor. One of the lessons that came out of the costly, unsuccessful experiment of prohibition is that it is impossible to force the will of one community upon another. The dry States have been unable to force prohibition on wet States. It has been universally accepted that, once this condition is eliminated, the reverse should not happen. No opponent to the eighteenth amendment seeks to force liquor on any community or on any State that desires to

be dry in accordance with the will of the majority of its people. The committee has recognized this principle by specifically providing in section 6 that beer described and covered by the bill now before us can not be shipped into States where its possession or use is prohibited. I believe that the bill should go one step further and provide affirmative action on the part of any State before a license is issued to a brewer in accordance with the provisions of the bill to manufacture the beer permitted by this bill.

Out of the time given to me I wish to call attention to an amendment I expect to offer to-morrow at the proper time. Section 6 of the bill divests this beer of its interstate character and prohibits the shipment into any State where the use, possession, or sale of such liquor would be unlawful. Now, Mr. Chairman, what is the situation? Since prohibition several States have repealed all enforcement laws and all regulatory laws, so that under present conditions beer would be permitted to be sold in these States without any restriction or regulation whatsoever.

I shall offer an amendment at page 6, line 10, after the word "thereof," to add the following:

And the shipment into any State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, prior to enactment of law by such State or Territory permitting the manufacture, possession, and sale of such fermented liquor.

So that section 6 as amended would read:

In order that beer, ale, porter, and similar fermented liquor containing 3.2 per cent or less of alcohol by weight may be divested of their interstate character in certain cases, the shipment or transportation thereof in any manner or by any means whatsoever from one State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, or from any foreign country, into any State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, which fermented liquor is intended by any person interested therein to be received, possessed, sold, or in any manner used, either in the original package or otherwise, in violation of any law of such State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, and into any State, Territory, or District of the United States, or place noncontiguous to but subject to the jurisdiction thereof, prior to enactment of law by such State or Territory permitting the manufacture, possession, and sale of such fermented liquor is hereby prohibited. Nothing in this section shall be construed as making lawful the shipment or transportation of any liquor the shipment or transportation of which is prohibited by the act of March 1, 1913, entitled "An act divesting intoxicating liquors of their interstate character in certain cases" (U. S. C., title 27, sec. 122).

Naturally this idea of requiring affirmative action on the part of the States desiring to avail themselves of the opportunity of manufacturing and selling the beer of the alcoholic content provided in this bill would necessarily have to be carried out by amendments in other sections of the bill. It has been pointed out that the bill is purely a revenue bill and that the rules will be strictly applied. In connection with that desire I wish to point out that the committee itself has injected into the bill a prohibition of shipments into so-called dry States, as referred to in the Webb-Kenyon Act, and that in and of itself, I believe, opens the door for the amendments to carry out the proposition I propose.

There are two propositions here. The bill as it stands prohibits the shipment of this beer into States where its possession or sale would be unlawful, and my proposition requiring affirmative action of the States that have no enforcement laws permitting the sale of this beer, thereby giving notice to States that it would have to act affirmatively, and in doing so it can adopt any regulatory measure it may deem proper and suitable under the conditions of that State and in keeping with the public opinion of that State. Then, Mr. Chairman, the responsibility is on that State and not on the Congress.

I want to point out that there are 31 States whose legislatures will meet in January of next year. In other words, the legislatures of the following 31 States will be in session next month, and this bill can possibly be back from the Senate: Arizona, Arkansas, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Maine, Massachusetts, Michigan, Minnesota, Missouri, Montana, Nebraska, New Hamphire, New Mexico, New York, North Dakota, Ohio, Oregon, Rhode Island, South Dakota, Tennessee, Texas, Utah, Vermont, Washington, West Virginia, Wisconsin, and Wyoming.

Each State would by appropriate legislation permit the sale of beverages of the alcoholic content provided in this bill and provide where and how it could be distributed and sold within its own boundaries. Gentlemen, I feel that we owe that much to the States. Repeal of enforcement laws in many of the States was the result of a protest against national prohibition. The States should have time to reenact their enforcement and regulatory laws in order to be in full control of the situation. This a revenue bill as far as we are concerned. It is based entirely on revenue. We should give the States an opportunity also to derive revenue from the sale of this beer. License fees have been a source of revenue to many States and municipalities. Many municipalities require State legislation before they can properly collect license fees. All of these details require legislative action, and I contend the States should be given the opportunity to adjust themselves to the new condition which will be brought about by the enactment of the bill we are now considering.

Unless this is done the bootleggers and the racketeers in the States will continue to control the traffic in beer, and we will create an anomalous position whereby the Federal Government is collecting a revenue tax on beer, and the racketeers in the States and in the cities will collect tribute by reason of there being no enforcement laws in such States. If notice is given by proper provision in this bill, as my amendment would do, the State would first have to take, as I have stated before, affirmative action before it could avail itself of the privilege of manufacturing and selling the beer covered in this bill. I make this suggestion in keeping with my belief that the eighteenth amendment has not produced temperance but has created a state of disregard for the law, disobedience of law, and a criminal condition such as we have never seen or ever expected in this country. In approaching this subject, looking for a repeal of the eighteenth amendment, we must, therefore, act as I have stated, cautiously and intelligently.

Mr. SANDERS of Texas. Mr. Chairman, I yield 10 minutes to the gentleman from Texas [Mr. BLANTON].

Mr. BLANTON. Mr. Chairman, I ask unanimous consent to revise and extend my remarks and to include therein some excerpts which I intend to refer to in my speech.

The CHAIRMAN. The gentleman from Texas asks unanimous consent to extend his remarks in the RECORD as indicated. Is there objection?

There was no objection.

Mr. BLANTON. Mr. Chairman, this bill proposes to do an ignoble thing. It would make us faithless to our oath of office. Does any Member deny this? Let me offer witnesses to prove it. I call first three prominent Republicans, W. C. HAWLEY, CHARLES B. TIMBERLAKE, and FRANK CROWTHER, and then I will call three prominent Democrats, HEARTSILL RAGON, MORGAN G. SANDERS, and JERE COOPER, all six of them being members of the Ways and Means Committee, which held the hearings and reported this "beer" measure, and all being well prepared to render a decision on it. They have filed minority reports against this bill, and all have said over their signatures that this bill violates the Constitution of the United States, and they can not vote for it, because in doing so they would violate their oath of office.

Let me give you a brief history of these men: WILLIS CHATMAN HAWLEY is 68 years old, has an A. M. and an LL. D. degree, is a member of the bar of the Supreme Court of the United States, has been a Member of Congress for 26 consecutive years, and for a long time was chairman of the Ways and Means Committee; CHARLES BATEMAN TIMBERLAKE is a Knight Templar, Shriner, and Knight Commander of the Court of Honor in Scottish Rite Masonry, and has been a Member of Congress for 18 consecutive years; Dr. FRANK CROWTHER is 62 years old, is an authority on taxation and tariffs, has held local positions in Schenectady, N. Y., and has been a Member of Congress for 14 consecutive years, and has been reelected to the Seventy-third Congress; HEARTSILL

RAGON is 47 years old, has been a member of his State legislature, district attorney, chairman of his State Democratic committee and convention, and has been a Member of Congress for 10 consecutive years; MORGAN G. SANDERS has been a member of his State legislature, prosecuting attorney of Van Zandt County, district attorney, and a Member of Congress for 12 consecutive years; Capt. JERE COOPER served with distinction in France and Belgium, was city attorney for eight years, was State commander of the American Legion for Tennessee, is a Knight Templar and Shriner, and continues to be reelected to Congress by increased majorities. As honored members of the great Ways and Means Committee, the opinion of the above six men ought to come with weight and authority. Now, I will let them speak to you:

MINORITY VIEWS OF MESSRS. HAWLEY, TIMBERLAKE, AND CROWTHER

At the beginning of this session of Congress, in company with all my colleagues, I stood on the floor of the House and took the oath to support the Constitution of the United States, as required by article 6 of the Constitution. I quote from that oath:

"I do solemnly swear that I will support and defend the Constitution of the United States * * * bear true faith and allegiance to the same * * * without any mental reservation or purpose of evasion."

Article 18 of the amendments provides that—

"The manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all Territories subject to the jurisdiction thereof for beverage purposes is hereby prohibited."

I listened with careful attention to the evidence submitted to the committee during the hearings preceding the report of the pending bill—H. R. 13742. My observation covers a period prior to prohibition as well as under prohibition. I am convinced by the evidence submitted at the hearing and by observation and evidence extending over a period of a lifetime that beer and other liquors described in the bill are intoxicating. They were intoxicating prior to prohibition. A legislative declaration to the contrary does not overcome that fact, and if I were to support this legislation it would require a "mental reservation" on my part and a "purpose of evasion" of the eighteenth article of amendment to the Constitution.

On the part of the Federal Government, this bill proposes that the country enter upon a new era in the manufacture, distribution, sale, and consumption of intoxicants. It provides for the reestablishment of 90 per cent in volume of the liquor traffic on the basis of the amount prior to prohibition.

The brewing interests, realizing the influence that the great fundamental law of the land and the strength of the purpose of the people for its observance, attempted to avert opposition to this bill by constant reiteration of the allegation that malt beverages of the strength proposed were not intoxicating in fact as the basis and justification of their sale.

The bill originally proposed that the alcoholic content should be 2.75 per cent by weight, or 3.4375 per cent by volume. The majority of the committee increased the alcoholic content to 3.2 per cent by weight, or 4 per cent by volume, on the ground that this would increase the attractiveness of the beverage and increase its sale.

The question of the influence of alcohol on the human system has an added importance, owing to the development by national, State, and local funds of great highways and other improved roads, over which are operated some 26,000,000 motor vehicles. An individual may not be visibly intoxicated to the extent that he may be identified as a "drunk," but his muscular reactions and mental activities may be so depressed that he is not able to respond as quickly as when normal. Detailed evidence of this fact was submitted to the committee. The lives and property of people who use the highways are subjected to constant risk, and the traffic problem is one of the most important in the United States, and anything that will increase its dangers is against the public interests. During the hearings the brewing interests indicated their desire to secure a widespread distribution and opportunity of sale for beer and other beverages provided in the bill. On the allegation that they were not intoxicating, it was suggested that beer be sold at soda fountains, drug stores, cafeterias, hotels, restaurants, clubs, and also at wayside eating places, filling stations, and other places along the highways, or, to put it in other words, it should be sold as freely as soda water, ginger ale, and other soft drinks. The wayside sales would become a direct and continuing menace to vehicular traffic. The sale in drug stores, soda fountains, and other places where soft drinks are dispensed to the multitude would bring beer within the reach of everyone, including the very young, and be a constant temptation to them to drink this toxic and habit-forming beverage. That which might not intoxicate people of mature years will certainly intoxicate the young. The motion to restrict the sale to clubs, restaurants, hotels, etc., was voted down in the committee.

If it should be argued that the matter of distribution can be controlled by the States, let me call your attention to the fact that this bill expresses the attitude of the Federal Government toward the matter and that the refusal of many of the States to participate in enforcement indicates that from them at least no help can be expected.

During the hearings the brewing interests stated they had no desire for the return of the saloon and referred to the planks in the party platforms; but a motion to prevent the return of the saloon, by refusing to permit beer to be sold in such places, was voted down in the committee.

According to an estimate called to the attention of the committee, the consumption of alcohol liquors in the United States is approximately but one-third of what it was prior to prohibition.

The public health under prohibition has materially improved and, according to the information furnished, reached a remarkable degree in the last fiscal year.

Some urged upon the committee that bootlegging, racketeering, speak-easies, blind tigers, illicit distilling and brewing were the result of prohibition. This can not be true because such operations were carried on for a long period of years before prohibition. Terms have been altered to some extent, but the operations are similar.

The estimates of reemployment submitted to the committee by proponents of the bill varied, but altogether were a comparatively small number, without taking into consideration the loss of labor to persons now working in other industries whose sales would diminish because the money theretofore expended in purchases of their products would go to the purchase of malt liquors.

The income of the people generally of the United States will not be increased by the sale of malt liquors. Purchases of such beverages must be paid for from the family income. Other purchases must be reduced in amount, since incomes can not be expended twice.

It is alleged that the revenue to be derived from this measure will tend to balance the Budget. The brewing interests indicated that at the end of two years they will be manufacturing 40,000,000 barrels of beer of 31 gallons each, if the taste for this beverage is recreated, which at $5 a barrel will bring $200,000,000 of revenue to the Government, to which they added an estimate of income from the so-called allied industries; but they failed to deduct therefrom the losses that will be incident to other businesses from which revenue is now being derived. This would materially reduce the supposed income. I do not believe the Government should obtain revenues through the violation of the Constitution and by legalization of beverages which produce intoxication. Beer was intoxicating before prohibition. Its constituent elements remain the same, and will undoubtedly produce intoxication again. I believe the Budget should be balanced, but that legitimate sources of revenue legal under the Constitution should furnish the necessary amount.

From the above, as well as from many other factors I shall not take occasion to name, it appears that we are facing a wide-open situation in the matter of the dispensation of malt liquors. Some things were said during the hearings by the brewing interests concerning the protection of the dry States from the entrance of intoxicants within their borders from wet States. With our motor system of transportation, with tens of thousands of automobiles moving continually back and forth, with trucks on the highways carrying freight brought from many sources and distributed to many destinations, with increased traffic in the air, I came to the conclusion that a dry State surrounded by wet States or adjacent to one or more wet States would find itself subject to an impossible task in maintaining its dry status.

My feeling, after listening to many discussions and the recent hearings, is that the liquor interests are planning, by this measure, to secure again the existence of 90 per cent by volume of the liquor traffic, the repeal of the eighteenth amendment, and the return again of the sale of all intoxicating liquors with attendant and acknowledged evils. It seems to me that if we adopt the policy contained in this bill the return of the saloon is inevitable.

W. C. HAWLEY.

We concur in the above statement.

CHAS. B. TIMBERLAKE.
FRANK CROWTHER.

Mr. Chairman, will any Member deny that the three distinguished Members of this House quoted above have not told the truth when they assert that the beer proposed by this bill to be manufactured and sold is intoxicating, and that it is intended to be intoxicating, and that to vote for such a bill would violate the oath of a Member of Congress? You will note that these gentlemen quoted their oath, and quoted the Constitution. Now, see what the other three distinguished members of the Ways and Means Committee said over their signatures:

MINORITY VIEWS OF MESSRS. RAGON, SANDERS, AND COOPER

We have heard and read all of the testimony before the Ways and Means Committee relating to the proposed legislation on beer. Taking all of this testimony as a whole and duly considering same, we are of the opinion that the proposed bill is violative of the Constitution of the United States, which in this regard reads as follows:

"After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited."

As Members of Congress we took the following oath:

"I do solemnly swear that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I will take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God."

Therefore we can not under our oath support this legislation.

We further submit that the proposed bill is not only in violation of the Constitution of the United States but of the Democratic platform, which calls for the "sale of beer and other beverages of such alcoholic content as is permissible under the Constitution." The above quotation from the platform shows that it was not the intent of those framing the platform to declare for legislation which would be violative of the Constitution.

The very clear and definite proof before the Ways and Means Committee during the extended hearings on this bill shows conclusively that beer of alcoholic content of 3.2, which means beer of 4 per cent alcohol by volume, is intoxicating in fact and is the same type of beer which was generally produced and sold prior to the Volstead Act. The sale of such beer, because of its alcoholic content, is not permissible under the Constitution.

HEARTSILL RAGON.
MORGAN G. SANDERS.
JERE COOPER.

Mr. Chairman, the Washington Star is one of the finest, cleanest, ablest edited, most reliable newspapers in the whole United States. From its splendid editorial last Sunday I quote the following:

THE BEER BILL

The committee report on the Collier beer bill, which will probably be voted on Tuesday in the House, is an interesting and informative treatise on (1) the change of sentiment toward prohibition; (2) the need for revenue and the fact that beer taxes would yield revenue; (3) the physiological effects of alcohol on an empty stomach as compared with such effects of alcohol when taken with food; (4) the psychological effect of reestablishing an industry utilizing man power, railroads, and farm produce; and (5) the evils, sanitary and otherwise, of the bootleg traffic in beer and home-brew, from which the Federal Government collects no revenue.

Yet all these matters are irrelevant. The question is: Is beer of 3.2 per cent by weight or 4 per cent by volume intoxicating within the meaning of the Constitution of the United States, which forbids the "manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes"?

Is there any basis for the assumption that "beer is to be drunk * * * in limited quantities and with food"? Is not the weight of the evidence, drawn from common knowledge regarding the conditions before prohibition, exactly to the contrary? When the saloons were selling beer, did patrons of the saloons consume it only in limited quantities and with food? They did not.

And that emphasizes another important section of the beer bill. Beer would be sold "in or from" bottles, casks, barrels, kegs, or other containers. No restrictions are made as to its retail sale "in or from" such containers. That would mean the return of the beer saloon, except in the States that chose specifically to outlaw saloons.

Both parties are pledged to fight the return of the saloon. Why does this bill make no mention of the beer saloon, or seek to control retail sale of beer? It is, presumably, because of the obvious inconsistency that would lie in calling a beverage nonintoxicating, and then seeking to regulate its retail sale because of its intoxicating qualities. But if the States seek to control its retail sale, they will thereby immediately recognize it as intoxicating, and if it is intoxicating it is contrary both to the letter and the spirit of the eighteenth amendment.

This beer bill permits the return of the beer saloon. People will get drunk in those saloons on 4 per cent beer. That is the truth and it can not be dodged.

Mr. Chairman, it will be noted that the Washington Star states emphatically that this beer bill permits the return of the saloon, and that people will get drunk in those saloons on 4 per cent beer. And it concludes by stating:

That is the truth and it can not be dodged.

I have been greatly amused at the wonderful change which has come over Hon. A. Mitchell Palmer since 1918. During that year he made the following statement:

The facts will soon appear which will conclusively show that 12 or 15 German brewers of America, in association with the United States Brewers Association, furnished the money amounting to several hundred thousand dollars, to buy a great newspaper in one of the chief cities of the Nation; and its publisher, without disclosing whose money had bought that organ of public opinion, in the very Capital of the Nation, in the shadow of the Capitol itself, has been fighting the battle of the liquor traffic.

When the traffic, doomed though it is, undertakes and seeks by these secret methods to control party nominations, party machinery, whole political parties, and thereby control the Government of State and Nation, it is time the people know the truth.

The organized liquor traffic of the country is a vicious interest, because it has been unpatriotic, because it has been pro-German in its sympathies and in its conduct. Around these great brewery organizations owned by rich men—almost all of them are of German birth and sympathy, at least before we entered the war—has grown up the societies, all the organizations of this country intended to keep young German immigrants from becoming real American citizens.

It is around the sangerfests and sangerbunds and organizations of that kind, generally financed by the rich brewers, that the young Germans who come to America are taught to remember, first, the fatherland and, second, America.

The above statement made by Hon. A. Mitchell Palmer in 1918 caused the United States Senate to appoint a Senate committee to investigate the activities of the brewers and liquor interests in the United States. I will shortly call attention to what this investigation disclosed. Before doing that, however, I want you to note how A. Mitchell Palmer has changed since 1918. He has recently prepared a very extensive brief advocating that Congress shall submit immediate repeal of the eighteenth amendment to conventions, and that such conventions which are to do the ratifying are to be the creatures of Congress, formed and fashioned in every detail by the Congress of the United States. In his brief, a copy of which has been sent to each Member of Congress and which the great wet leader, Mr. BECK, caused to be printed in the CONGRESSIONAL RECORD, A. Mitchell Palmer says:

Prompt repeal of the eighteenth amendment, followed by fair taxes on vinous, spirituous, and malt liquors will put the bootleggers' profits into the Federal Treasury. It will balance the Budget, secure the Government against the possibility of bankruptcy, and relieve the people of further additions to the already intolerable burden of taxation.

Just what has come over Mr. A. Mitchell Palmer since 1918? Then he said the liquor traffic was doomed. Then he complained because German brewers had paid several hundred thousands of dollars to buy a great newspaper "in the shadow of the Capitol," and he denounced the attempt of brewers "to control party nominations," and he said they were controlling whole political parties and party machinery and the Government of State and Nation, and he wanted the people to know about it. Now, in 1932, he wants whole parties, party machinery, State governments, and the National Government turned over to the brewers.

The Senate committee reported its findings and conclusions on its investigation to the United States Senate and same are printed in the CONGRESSIONAL RECORD for June 16, 1919, and after quoting the charges made by A. Mitchell Palmer in 1918, mentioned a moment ago, such Senate investigating committee reported as follows:

The subcommittee began its investigation on September 27, 1918. At the request of the subcommittee the Secretary of War very kindly detailed from the Judge Advocate General's Department, United States Army, to aid the committee, Maj. E. Lowry Humes, formerly United States district attorney for the western district of Pennsylvania, and from the Military Intelligence Division, United States Army, Capt. George B. Lester, an attorney of New York, and also the Attorney General very kindly detailed from the Department of Justice, Mr. William R. Benham, all of whom rendered most valuable assistance to the committee in the collection of evidence, the production of testimony, the examination of witnesses, and in the preparation of reports.

With regard to the conduct and activities of the brewing and liquor interests, the committee is of the opinion that the record clearly establishes the following facts:

(a) That they have furnished large sums of money for the purpose of secretly controlling newspapers and periodicals.

(b) That they have undertaken to and have frequently succeeded in controlling primaries, elections, and political organizations.

(c) That they have contributed enormous sums of money to political campaigns in violation of the Federal statutes and the statutes of several of the States.

(d) That they have exacted pledges from candidates for public office prior to the election.

(e) That for the purpose of influencing public opinion they have attempted and partly succeeded in subsidizing the public press.

(f) That to suppress and coerce persons hostile to and to compel support for them they have resorted to an extensive system of

boycotting unfriendly American manufacturing and mercantile concerns.

(g) That they have created their own political organization in many States and in smaller political units for the purpose of carrying into effect their own political will, and have financed the same with large contributions and assessments.

(h) That with a view of using it for their own political purposes they contributed large sums of money to the German-American Alliance, many of the membership of which were disloyal and unpatriotic.

(i) That they organized clubs, leagues, and corporations of various kinds for the purpose of secretly carrying on their political activities without having their interest known to the public.

(j) That they improperly treated the funds expended for political purposes as a proper expenditure of their business, and consequently failed to return the same for taxation under the revenue laws of the United States.

(k) That they undertook, through a cunningly conceived plan of advertising and subsidation, to control and dominate the foreign-language press of the United States.

(l) That they have subsidized authors of recognized standing in literary circles to write articles of their selection for many standard periodicals.

(m) That for many years a working agreement existed between the brewing and distilling interests of the country, by the terms of which the brewing interests contributed two-thirds and the distilling interests one-third of the political expenditures made by the joint interests.

Thus the investigating committee of the United States Senate spoke on June 16, 1919. Saloons then were still in existence. If brewers and distillers were doing all of the above in 1918 when they had saloons, how much more do you suppose they have been doing for the past 14 years to get saloons back. Where they spent hundreds of thousands of dollars in 1918 they are spending millions upon millions of dollars in 1932. Do you think that they have quit spending large sums of money to control newspapers and magazines? Do you suppose that they have quit spending large sums of money to control primaries, elections, and political organizations? With few exceptions, they have all of the big newspapers in the United States subsidized and controlled. They have most of the magazines under their influence. They use daily and control all of the big radio stations in the United States. They control the talking movie industry of the United States, and their filthy hand and influence are seen in practically every picture that is shown on the screen. They have many actors subsidized and under their control. Steps are taken to ruin and run out of public life every legislator who dares to speak or vote for prohibition. Wet organizations spend large sums of money in his district to defeat him for reelection. The wet press misquotes such men and reflects upon them in every possible way in all news dispatches. And constituents never dream that their Representative has been put on the spot.

In 1928 the issue in this country was clearly and distinctly drawn. The distinguished candidate from New York promised the people of the United States a repeal of the eighteenth amendment. He promised them immediate return of the brass rail and the foaming glass. He promised them that they would have returned to them their Mumm's Extra Dry.

President Hoover, although suffering the handicap of having been criticized most severely by the leading members of his own party, one of whom from Indiana now sits before me, came out flat-footedly against repeal. He promised that he would uphold the eighteenth amendment. He promised that there would be enforcement of the law of the land, and we found that he got 21,300,000 American votes in the United States and carried such rock-ribbed, solid South, Democratic States in this Nation as Virginia, North Carolina, Florida, and Texas. I knew that he could not be depended upon. I stayed with my party and with my national ticket, and I made speeches over the country for my party ticket, including the wet candidate. Because my constituents did not want saloons my district went Republican, and because Texas people did not want saloons, my State went Republican, and likewise Democratic States like Virginia, North Carolina, and Florida went Republican because they did not want saloons.

Then Mr. Hoover capitulated in 1932. He went back on his dry proclivities and promises. He double-crossed the drys who put him in power. He adopted a wet platform, one as wet as the Democratic platform itself, and he lost the dry vote of the United States, both Republican and Democratic.

I want to say to my friends that the great State of Texas sent to Chicago to the national convention a dry delegation. Every delegate who went there was definitely instructed to vote against repeal, to vote against a return of the saloon, to vote against beer. They violated their instructions. They were not faithful to the people of Texas who sent them there, and they helped to put into the Democratic platform a plank that was just the opposite of what Texas people instructed their delegates to vote for.

Mr. CELLER. Will the gentleman yield?

Mr. BLANTON. I am sorry I can not yield.

At an expense of almost a million dollars to the people of the United States President Hoover appointed his famous Wickersham Commission and had it sit all over the United States and finally make a voluminous report. Most of the members he appointed were fundamental wets. There were 11 members of that commission. Ten out of the eleven members agreed upon certain conclusions, the first four of which I want to quote over their signatures from their printed report:

1. The commission is opposed to repeal of the eighteenth amendment.

2. The commission is opposed to the restoration in any manner of the legalized saloon.

3. The commission is opposed to the Federal or State Governments as such going into the liquor business.

4. The commission is opposed to the proposal to modify the national prohibition act so as to permit manufacture and sale of light wines or beer.

George W. Wickersham, chairman; Henry W. Anderson; Newton D. Baker; Ada L. Comstock; William I. Grubb; William S. Kenyon; Frank J. Loesch; Paul J. McCormick; Kenneth Mackintosh; Roscoe Pound.

The only member of the Wickersham Commission who refused to sign the above conclusions was Mr. Monte M. Lemann, of New Orleans, a lifelong wet. He, even, was against nullification, for from his separate signed report I quote him as follows:

I do not favor the theory of nullification, and so long as the eighteenth amendment is not repealed by constitutional methods, it seems to me to be the duty of Congress to make reasonable efforts to enforce it.

Then he said further, concerning light wines and beer:

I do not think that any improvement in enforcement of the eighteenth amendment would result from an amendment of the national prohibition act so as to permit the manufacture of so-called light wines and beer.

Now, gentlemen, listen; he said this, further:

If the liquor so manufactured were not intoxicating it would not satisfy the taste of the great majority of those who are now drinking intoxicating liquors, and if it were intoxicating it could not be permitted without violation of the Constitution.

I am one of those Members of Congress who is not in favor of this principle of nullifying our Constitution, because I know that the beer which is sought to be manufactured is to be intoxicating. If it were not intoxicating, it would not be drunk, if the committee please.

Now, in a separate report filed by Hon. Frank J. Loesch, of Chicago, he said:

It would be unwise to repeal the eighteenth amendment. Such repeal would cause the instant return of the open saloon in all States not having state-wide prohibition.

Furthermore, Chief Justice Kenneth Mackintosh, of the Supreme Court of Washington, also a member of the Wickersham Commission, said:

Civilization will not allow this Nation to end the long attempt to control the use of alcoholic beverages.

Federal Judge Paul J. McCormick, in his separate report on this Wickersham Commission, said:

Absolute repeal is unwise. It would, in my opinion, reopen the saloon. This would be a backward step that I hope will never be taken by the United States. The open saloon is the greatest enemy of temperance and has been a chief cause of much political corruption throughout the country in the past. These conditions should never be revived.

He said further:

The States favoring prohibition should be protected against wet Commonwealths. This right would be defeated by remitting the entire subject of liquor control and regulation to the several States exclusively.

What did Dean Roscoe Pound of the Harvard Law School say about the matter? He was a member of the commission. He said:

Federal control of what had become a nation-wide traffic and abolition of the saloon are great steps forward which should be maintained.

Federal Judge William I. Grubb, who was a member of the commission, said:

Prohibition is conceded to have produced two great benefits, the abolition of the open saloon and the eliminating of the liquor influence from politics. Remission to the States would assure the return of the open saloon at least in some of the States and the return of the liquor interests to the politics of all of them.

Now, Ada L. Comstock, the president of Radcliffe College, in her report—she could not even say one word for temperance, but she said this:

I favor revision of the amendment rather than its repeal.

Henry W. Anderson, of Virginia, a member of the Wickersham Commission, said:

We must not lose what has been gained by the abolition of the saloon.

In summing up his own separate conclusions, Hon. George W. Wickersham, chairman of the Wickersham Commission, said:

The older generation very largely has forgotten, and the younger never know, the evils of the saloon and the corroding influence upon politics, both local and national, of the organized liquor interests. But the tradition of that rottenness still lingers even in the minds of the bitterest opponents of the prohibition law, substantially all of whom assert that the licensed saloon must never again be restored.

Then he added—

It is because I see no escape from its return in any of the practicable alternatives to prohibition that I unite with my colleagues in agreement that the eighteenth amendment must not be repealed.

And, Mr. Chairman, we must not forget that the fundamentally wet Monte M. Lemann, of New Orleans, was frank and honest enough to state, "That if the beer to be manufactured were not intoxicating it would not satisfy the taste of the great majority of those who are now drinking intoxicating liquors, and if it were intoxicating it could not be permitted without violation of the Constitution."

Unless President Hoover deliberately wasted the hundreds of thousands of dollars he spent of the people's money on this Wickersham Commission, he will not ignore the above valuable portions of its otherwise valueless investigation and report, and will veto this unconstitutional beer bill whenever it reaches the White House; and we know that there are not enough votes in this Congress to pass it over his veto.

Our friend from Massachusetts [Mr. McCORMACK] tells us that we Members of Congress have nothing to do with the Constitution, that we should leave it to the Supreme Court of the United States. Then why is it, I ask him, that all of us, before we can serve here, must take an oath that—

We will support and defend the Constitution of the United States * * * bear true faith and allegiance to the same * * * without any mental reservation or purpose of evasion?

If we are not concerned about the Constitution, why are we forced to take such an oath? We do not swear that we will leave it to the Supreme Court to uphold the Constitution for us. We swear that we ourselves will uphold it, and that we ourselves will defend it, and we swear that we ourselves will bear true faith and allegiance to it, and we swear that we will all do it without mental reservation or purpose of evasion. Is there no purpose of evasion in this bill? Mr. HAWLEY says so. Mr. TIMBERLAKE says so. Mr. CROWTHER says so. Mr. SANDERS says so. Mr. COOPER says so. Mr. RAGON says so. They are all members of the Ways and Means Committee. They heard the evidence. They say this beer is intoxicating. They say that it violates the Constitution. They say that we can not vote for this bill without violating our oath of office.

Dr. Joy Elmer Morgan, a leader in the educational world and for the past 12 years editor of the Journal of the National Education Association, which speaks for 220,000 school teachers, recently wrote the following interesting article:

Since its organization in 1857, the National Education Association has favored the teaching of temperance and abstinence. It urged the adoption of the eighteenth amendment, and has stood solidly behind that measure throughout the years. Its official attitude is expressed in a resolution that has been adopted at its last two annual conventions. This resolution reads:

"The National Education Association reaffirms its stand in favor of the eighteenth amendment and of the laws enacted thereunder. It urges their vigorous and impartial enforcement, and pledges its support to an active educational campaign in behalf of habits of living for which the eighteenth amendment stands."

220,000 TEACHERS

The membership of the National Education Association is more than 220,000. Resolutions such as this have been adopted by almost all the State education associations of the country, and it is highly significant that the teachers of the Nation should take such a position. No other group is so close to the normal life of the people. No other group has under its daily charge the children and youth from all the homes, rich and poor. The teacher has an unusual opportunity to see the effect of social and economic policies upon home life and upon individual success. Teachers know that untold millions of fathers whose weekly pay check formerly went to the saloon are now investing that check in food and clothing and schooling for their children. Some of the finest high schools of America have been built upon the sites of former breweries.

There has been much loose talk about the effects of prohibition on young people. There has been more emphasis put upon the 1 student who goes wrong than upon the 999 who go right. Undoubtedly many well-meaning persons have been misled and confused by the statistics that have been circulated and by the large headlines in the yellow press.

303 OUT OF 312

Some weeks ago I wrote letters to the presidents of the colleges of America, asking for a report of the effects of prohibition on the students. Out of 312 replies received—a really remarkable response—303 felt that conditions had definitely improved and that they are steadily growing better. These college presidents know their young people. They know that they are busy and interested in the fine things of college life.

The enrollment in the high schools to-day is nearly three times what it was when prohibition went into effect. In 1900, when local and State prohibition began making its inroads into the liquor traffic, there were 500,000 students in the American high schools. In 1910 the number had grown to a million. By 1920 it had grown to 2,000,000, and between 1920 and 1930—the period of national prohibition—it grew to 5,000,000. This means that many persons from poorer homes and foreign groups are enjoying high-school opportunities who could not have had such opportunities a decade ago. Obviously much of this achievement is the result of prohibition. Money that was formerly spent for liquor has been saved for education.

Those who know the high schools best know that drinking is not a serious problem in most of them. For 10 years I have been traveling about the United States lecturing to student bodies, talking with school officers, attending conventions, and carrying on a heavy correspondence. Out of this wide experience I know that the school people believe in the eighteenth amendment, and that they believe in youth.

SOME HIP-FLASK HEARSAY

There recently appeared in the Philadelphia papers a statement reported to have been made by a teacher about hip flasks. Next morning Supt. E. C. Broome, of the Philadelphia schools, president of the department of superintendence of the National Education Association, 1931–32, called to his office the teacher who was reported to have made that statement and the principal of the school in which this teacher worked. The stenographic report of that conference, which was also published in all the Philadelphia papers, shows that neither the teacher nor the principal had ever seen a hip flask in the hands of a student or had ever found liquor in any school locker, although the principal has served 25 years in Philadelphia schools. Summarizing the testimony, Superintendent Broome has this to say:

"Thinking people who know youth and have their interest at heart are getting tired of this constant berating of the young people of our community. If all the adults in our community would behave as well as the young people do, and would set the right example, much of the difficulty that we are having with youth would disappear. This seems to be an open season for attack on the schools, and the church, and the courts, and on the other American institutions which we have taught our children to revere. How can we expect the rising generation to have respect for our country and its institutions if they are to be exposed to a constant barrage of flippant and irresponsible criticism?"

NO PLACE IN MODERN AGE

In all this argument about the eighteenth amendment let us not forget that liquor is an evil, that it destroys health, weakens the home, deadens ambition, corrupts government, destroys skill, debauches leisure, and destroys the spiritual aspirations and impulses. It is especially menacing in a machine age, because it destroys reliability. There are 25,000,000 automobiles in use in the United States to-day. More children of elementary school age are killed each year by automobiles than die from all other causes combined. There are injured in the United States each year by automobiles more people than live in the National Capital. Any increase in drinking, even of light wines and beers, would greatly increase the automobile death rate.

The present is a period of confusion on many problems. We need to be sure of our ground before we take any backward steps. Twenty-five years is a short time to bring into full operation such a measure as the eighteenth amendment. That amendment is the greatest social and economic advance ever deliberately undertaken by a great people. It is the greatest child-welfare measure ever put into operation excepting only the establishment of the Christian church and the founding of the common school.

Prohibition is an expression of the eternal struggle between things spiritual and things material. It holds that the right to be well born, decently reared, and adequately educated transcends any so-called right based on appetite for harmful beverages. Prohibition is not on trial. Free government is on trial. The Constitution is on trial. Intelligence is on trial. Conditions have infinitely improved in spite of all the aftermath of war. I do not believe America can be fooled into taking a backward step.

I wish that every Member here would read what Doctor Morgan has recently said on the terrible strangle hold the liquor interests now have over all radio transmission.

Mr. BRITTEN. Will the gentleman yield?

Mr. BLANTON. Oh, no; my friend from Illinois got after the gentleman from Ohio and said that Mr. MOUSER was a lame duck and was going out. Is the gentleman from Illinois quite secure in his own seat for the next Congress? [Laughter.] The gentleman ought to have been fair enough to tell Mr. MOUSER that some one has filed a contest over his election, and that he has not yet convinced all of his Republican and Democratic friends that he is entitled to the seat.

Mr. BRITTEN. I will come back; the gentleman need not worry. [Laughter.]

Mr. BLANTON. Yes; because I shall likely vote for him myself, because, "with all his faults, I love him still."

Our good friend from Kentucky [Mr. VINSON] attempted to quote the testimony of certain scientists who appeared before the Ways and Means Committee. I do not see how he can get any wet consolation from anything that was said by Doctor Miles. And I do not understand how any man of experience could believe Prof. Yandell Henderson, who testified that a person could get as drunk on drinking coffee or smoking a cigar as he could by drinking 3.2 per cent beer.

I know that a person can drink coffee all day long without getting drunk. And I know that I have seen many persons drunk from drinking a few bottles of pre-war beer, which all will admit was 3.2 per cent alcohol by weight. I would not believe a scientist on oath who would say that a person can get just as drunk on coffee as he can on 3.2 per cent beer. I wonder if Prof. Yandell Henderson thinks that such testimony as that would induce many fathers in the United States to send their boys to Yale to be taught by such a scientist.

Now, if I know the probative force and effect of the evidence given by Dr. Walter R. Miles, professor of psychology, of Yale University, it condemns this beer bill and shows conclusively that 3.2 per cent beer is intoxicating. I quote from his evidence the following:

STATEMENT OF DR. WALTER R. MILES, PROFESSOR OF PSYCHOLOGY, YALE UNIVERSITY

Mr. RAGON. Let me suggest that you give your name and address, as well as your occupation, to the reporter.

Doctor MILES. Walter R. Miles, New Haven, Conn.

Mr. RAGON. Are you connected with Yale University?

Doctor MILES. Yes.

Mr. RAGON. In what capacity?

Doctor MILES. I am professor of psychology in the medical school at Yale.

I suppose that I was asked to come here to discuss this measure with you because I have worked experimentally and scientifically with alcohol and its effects on human beings and because I am a psychologist and have conducted my investigations from that standpoint.

The work I shall discuss was not done at Yale University, and Yale University had nothing to do with it. I happen to have recently been called there as a professor, but this alcohol work was done at the nutrition laboratory of the Carnegie Institute, Boston, Mass., where I was research psychologist for eight years and where with Drs. F. G. Benedict, Raymond Dodge, T. M. Carpenter, H. L. Higgins, and others, I worked on certain problems connected with alcohol and its influence on human beings. This work resulted in the following publications:

"1. Benedict and Dodge, Tentative plan for a proposed investigation into the physiological action of ethyl alcohol on man: Proposed correlative study of the psychological effects of alcohol on man. Privately printed, Boston, 1913.

"2. Dodge and Benedict, Psychological effects of alcohol. Carnegie Inst. Wash. Pub. No. 232, 1915.

"3. Benedict, The alcohol program of the nutrition laboratory, with special reference to psychological effects of moderate doses of alcohol on man. Science, 1916, 43, p. 907.

"4. Higgins, The rapidity with which alcohol and some sugars may serve as nutriment. Am. Jour. Physiol., 1916, 41, p. 258.

"5. Carpenter, Physiological effects of ethyl alcohol when injected into the rectum, with special reference to the gaseous exchange. Am. Jour. Physiol., 1917, 42, p. 605. (Abstract.)

"6. Higgins, Effect of alcohol on the respiration and the gaseous metabolism in man. Journ. Pharm. and Exp. Therapeutics, 1917, 9, p. 441.

"7. Carpenter and Babcock, Absorption of alcohol and its concentration in the urine when injected by rectum. Journ. Biol. Chem., 1917, 29, p. XXVIII. (Abstract.)

"8. Miles, Effect of alcohol on psycho-physiological functions. Carnegie Inst. Wash. Pub. No. 266, 1916.

"9. Carpenter and Babcock, The concentration of alcohol in the tissues of hens after inhalation. Am. Journ. Physiol., 1919, 49 p. 128. (Abstract.)

"10. Miles, The comparative concentrations of alcohol in human blood and urine at intervals after ingestion. Journ. Pharm. and Exp. Therapeutics, 1922, 20, p. 265.

"11. Miles, Alcohol and human efficiency: Experiments with moderate quantities and dilute solutions of ethyl alcohol on human subjects. Carnegie Inst. Wash. Pub. No. 333, 1924."

My own work has been spread over a term of years. It was first begun in 1914, continued quite actively in 1919 (with 2.75 per cent by weight beverages), and again during May, June, and July in 1921.

Later, 1927–1930, I did some studies in alcohol and animals at Stanford University, California. I will confine my remarks chiefly to the work done in 1921, because that was entirely with 2¾ per cent by weight beverages and on a sizable group of young men.

Now, gentlemen of the committee, I am at your disposal. You are certainly very patient men. But I have no speech that I am anxious to perpetrate on you. If you want me to talk about this line, I will continue; but if you want to question me, I will do the best I can to answer.

Mr. RAGON. May I suggest that I think that what the committee is interested in is a discussion of the intoxicating effects of 2.75 per cent or 3.2 per cent beer. What we want to hear is a scientific discussion of the effects of alcohol on a human being, with respect to intoxication.

It has been suggested to me that there is wine in this bill also.

Doctor MILES. My investigation on this problem of 2¾ per cent by weight alcoholic beverages, undertaken in May, 1921, was independent of any challenge from anybody anywhere. No industry solicited my scientific interest to work on this problem. I was following out a program (see reference No. 1 above) which had been initiated at the nutrition laboratory in 1913, when they called to the laboratory Prof. Raymond Dodge, professor of psychology at Wesleyan University. Doctor Dodge was well known to Doctor Benedict as a man of great critical skill and technical skill in devising means of studying human functions. I was fortunate, indeed, as a young man who had just received his doctor's degree, to be called to Wesleyan University to follow Professor Dodge for a year, and later the Carnegie Institution selected me to succeed him at the Nutrition Laboratory. I was there for eight years—that is, until 1922—when I was called to Stanford University as professor of experimental psychology, and now I have just started my professional work at Yale University.

I had no aid from any brewery; that is, it was not possible for me to secure regularly manufactured beverages from such a source. Such commercial supplies would have been useful to me and have saved me labor. I would like to have worked with a beverage made up by brewers specifically for the purpose. This has been done, and the results agree quite well with my own (see Hollingworth, The Influence of Alcohol, Jour. Abnormal Psychol. and Soc. Psychol., 1923–24, 18, 204–237, 311–333). I compounded my own beverages and I did it with great care under the check of chemists. The beverage I used was not beer, but alcohol, 27.5 grams, and grape juice, 300 cubic centimeters, and water to total 1,000 cubic centimeters. In fact, in certain experiments I did use a nonalcoholic beer that, according to my own analysis, proved to have four-tenths of 1 per cent of alcohol in it. I allowed for that and added sufficient to bring it to 2.75 per cent by weight. This was used with only one subject. What I should like to report more fully is the work I did on seven or eight subjects, young men students in Harvard Medical School, which was my near neighbor. First, about the choosing of these subjects: I wanted to do this work rather differently than any other alcohol investigation had previously been done. It was my desire to

relate the alcohol effect as found in the psychological laboratory tests to the amount of alcohol appearing in the blood. It is not what you carry under your arm that intoxicates you, or what is in your stomach; it is what has passed through the walls of the stomach and is in the blood stream circulating in contact with the nervous system that produces the well-known effect of alcohol. I chose my subjects by finding out two things:

Have you been in the habit of using moderate quantities of alcohol and have you any scruples against such use? My next question was: Have you ever given blood samples, as in blood transfusions?

So I chose my subjects in this way, and I think that the men chosen, who were willing to give blood samples and who had nothing against taking alcohol, were probably sufficiently virile men, and satisfactory subjects.

Samples of blood were taken 20, 40, 70, and 120 minutes after my eight men drank the laboratory beverage. They were given 27½ grams of alcohol in 1 liter of fluid (1,000 cubic centimeters)—that is, a pint and three-quarters. The stomach can easily take that much. It is more than you would ordinarily take, but it is not more than a truck driver with a mid-afternoon thirst might stop to take.

Mr. VINSON. Within what period?

Doctor MILES. Within 20 minutes.

Mr. HAWLEY. Of what alcoholic content?

Doctor MILES. Two and three-fourths per cent by weight; 3.4 by volume; that is, he is taking slightly over a fluid ounce of alcohol; he is taking actually 34.4 cubic centimeters of absolute alcohol, whereas 28.4 cubic centimeters amounts to a fluid ounce; he is taking slightly over an ounce of alcohol, and taking it in this 2.75 per cent type of beverage.

I also gave to these men the same amount of alcohol (27.5 grams) in one-tenth as much solution (100 cubic centimeters), and I found that the amount appearing in the blood stream was now about 50 per cent higher than before. The two sets of results are as follows:

Minutes after drinking	Drinking (1,000 c. c.)	Drinking (100 c. c.)
20	0.18	0.29
40	.24	.43
70	.31	.44
120	.31	.37

"This is the average for eight men and shows the decimal fractions of one part per thousand of alcohol to blood. It is taken from Table 54 in reference No. 11 above."

We must remember that dilution is only one of the factors controlling intoxication. You can hand out alcoholic beverages diluted to this or that amount, but you can not control how much a man will take, when he will take it, who he is or what he wants to do after he has taken it.

I will mention only four specific tests of those applied to these men, and I will try to select such as I think we could readily agree upon as having a practical relationship to human behavior and human performance.

The first will be the influence of this 2.75 per cent beverage on their pulse rates. The average pulse rate indicates the energy transformation that is taking place and reflects the demand that is being made on the organs. I found that the seven men, all but one, showed increases in pulse rate associated with the taking of this beverage which mounted to from 4.4 to 17.8 per cent and in the two hours after drinking averaged 8.8 per cent; their pulses were that much faster. The maximum effect came from 40 to 70 minutes after drinking when it was over 10 per cent.

Ordinarily the heightening of the pulse is due to a greater requirement on the organism for work, for thinking, an emotional change, or a slight febrile condition. Temperature and the pulse running together are parallel indicators of energy transformation. But after this much alcohol the heart is called on for work beyond what the natural physiological or psychological condition demands. The change is not at its height immediately, but gradually increases, and then diminishes. By the end of two and one-half to three hours it (the effect on the heart) would practically have disappeared.

This condition after alcohol was of course compared against that which resulted from taking an equal amount of the same ingredients, except the ethyl alcohol was omitted. The food value of 300 cubic centimeters of unsweetened grape juice would amount to 200 calories, about one-fifth of an ordinary meal.

Next we considered the matter of the body temperature——

Mr. CHINDBLOM. Will you tell us what the comparison was?

Doctor MILES. This comparison that I have given you on the seven men showed a change that is an increase in pulse rate of from 4 to 18 per cent for the alcoholic condition against what we might call the nonalcoholic or the control condition.

Mr. CHINDBLOM. That is, there was an acceleration of 18 per cent when the alcohol was used?

Doctor MILES. There was an acceleration of 18 per cent in some and 4 per cent in others, averaging 11 per cent at its height. It was 5 per cent 20 minutes after taking, 11 per cent 50 minutes after taking, then it dropped to a little below 10 per cent and gradually diminished. This was in comparison with or against the taking of a nonalcoholic solution. You can not give a drug and assume that just what you get following is the effect. You must give something on another occasion as a comparison for that. You can not introduce into the organism a pint of fluid and not change the organism. You probably won't introduce that fluid at the same temperature as the organism, and a temperature change amounting to several degrees introduced centrally in the body is bound to exercise a change in the organism.

Mr. MCCORMACK. Would a pint of coffee have any effect?

Doctor MILES. It probably would, but the coffee would have quite a different effect than the alcohol. As a rule, it would not make the responses slower or more variable. I think it goes without saying that most of you know that there is a difference in the effects of the two substances.

Mr. VINSON. What about a strong cigar?

Doctor MILES. A strong cigar, if smoked too rapidly, and if the material in it is not well oxidized, will make some men highly conscious of the fact that something in the nature of a drug has been applied to them.

Mr. MCCORMACK. Have you ever made any tests respecting tobacco?

Doctor MILES. I have never worked with tobacco experimentally in the laboratory. Considerable work of this character has been done by others.

Mr. VINSON. What was the variation in the rate of pulse you found in these tests?

Doctor MILES. The normal rate after the nonalcoholic drink was 64.6 beats per minute, whereas the rate after the 2.75 per cent was 68, with no other conceivable reason that you could assign. The same tests carried out in the same way, with the same men and under the same conditions, with nothing else as an alibi for explaining the differences that you get in pulse rate.

Mr. CHINDBLOM. Are there any permanent effects from that acceleration?

Doctor MILES. No; not that I can indicate. A heart that has not been strained is responsive and promptly gets over this condition.

Mr. CHINDBLOM. If that were not so, excitement or surprise would be constantly giving us permanent injuries?

Doctor MILES. Yes. There are some irreversible changes going on in our bodies as we get older. I am just now trying to do some research on these, but this is not of that sort.

Mr. CHINDBLOM. It is not clear to me just what the effect was at the expiration of 120 minutes. You have told us that there would be an increase of from 4 to 18 per cent.

Doctor MILES. Yes.

Mr. CHINDBLOM. What would be the percentage at the end of the period?

Doctor MILES. It was just zero.

(NOTE.—This should be corrected, as the alcohol effect still amounted to about 8 per cent increase at the end of 2½ hours.—W. R. M.)

Mr. CHINDBLOM. At the end of 120 minutes?

Doctor MILES. At the end of 120 minutes it was returning to its base line; the effect was fading.

Mr. CHINDBLOM. What effect were you referring to when you used the term two and one-half or three hours, or some long period?

Doctor MILES. Two hours, or 120 minutes, and usually my experiments lasted that long or longer. There were four periods of observation following ingestion; there had been two before that. I had a series of measurements that required 30 minutes to go through. We went through them twice and then the beverage was taken, following which we went through them four more times, so that would give us 120 minutes—I am sorry; I went through them five times after the ingestion, and that would be two and one-half hours.

Now, as to the skin temperature, we use the temperature of the body as a fairly good measure of its condition, indicating if the individual is normal or has an infection. I measured the skin temperature of the hands and face. This was done by a thermocouple method used in industry in many places and which will register to one hundredth degree. It was found that following this ingestion of 2.75 per cent alcohol there was an increase in the surface temperature. Following the ingestion of a liter containing 27½ grams of alcohol, the average maximum effect is an increase of about three-tenths of a degree centigrade, about a degree Fahrenheit. The temperature of the hands increased about 1.2° C. On this same scale skin temperature would usually be about 33° C.

The assumption that seems valid is that the capillary walls have been relaxed by the alcohol. A larger proportion of the blood is now in the periphery, and, of course, it is well known that by ingesting alcohol people have made themselves feel more comfortable in the presence of cold.

Now, two more measures. Take the measures of standing, approximately like standing at attention for military purposes. You will find that 65 minutes following this ingestion of 2.75 per cent these same people show a 20 per cent increase in unsteadiness.

Mr. MCCORMACK. You say for military purposes. Is that the test?

Doctor MILES. This was similar to it. They stand, but not on the balls of the feet.

Mr. MCCORMACK. Have you ever stood at attention?

Doctor MILES. Yes.

Mr. MCCORMACK. You know it is a pretty hard thing to do.

Doctor MILES. I know it is hard, but I did not prescribe it in that way for them. They stood with the center of gravity further back—I did not want them to faint, but to stand as quietly as they could.

Mr. McCORMACK. How long did they stand?

Doctor MILES. Two minutes, and they are 20 per cent less steady, and this is an effect that sweeps up and goes down like these other effects.

The fourth and last measure I will mention in connection with these experiments was one——

Mr. HAWLEY. Before you get to that, what would that effect be upon an automobile driver?

Doctor MILES. Many people who are driving automobiles under the influence of liquor are not detected who would be detected if they were walking as pedestrians in the street. The effect of alcohol is more intense on the lower limbs than it is on the upper limbs.

Mr. HAWLEY. What effect would it have on their motor reactions?

Doctor MILES. They would be a little less quick, but that is not the main effect; they would be more variable in the response. This regard as the main effect, conducive to accidents or to oddities of behavior.

Do you want me to follow up that point?

Mr. HAWLEY. Please do so.

Doctor MILES. You know that the nervous system is built of units. It is not a totality, but an assemblage of units. We have many more units than we ordinarily employ. We work these units into patterns, through a process we call learning. Impulses get in the way of passing over certain trains of neurones, and that is the meaning of a habit, the tendency for the same kind of a situation to cause that train of nervous response to run over the same groups——

Mr. HAWLEY. Developed in a pianist, for instance.

Doctor MILES. As an example developed in a musician's keyboard fingering.

Alcohol seems to have this peculiar thing about it; it has an affinity for the nervous system. It is chemically known as C_2H_5OH and the C_2H_5 combination is known as the ethyl group. If you put that group in combination with a dye that will stain, and if this be injected into the organism of a rat, you find that the nervous system is chiefly stained by this dye. Common beverage alcohol has this ethyl group of atoms in its molecule. In this same way, in the circulation through the blood, it is picked up by the nervous system. I can not tell you just where it does its chief job or has its chief effect in the nervous system, whether in the cell body or whether at the margin where the little projections from the cells come into closest contact and where the impulses must go across. I suppose it is at the latter place. But, anyway, the habit system does not run through with the same regularity after alcohol.

The drinker himself is surprised and interested in his own oddities of action after alcohol. Why is it he can not place the key immediately in the keyhole? With my eyes closed I can reach directly to my pocket, secure my handkerchief, and put it unfailingly to my eye, but, probably, if I had considerable alcohol circulating in my blood I could not do it so directly. My hand might go too far toward my shoulder or in some other direction. His hand, reaching for the key, goes to one side or up or down. With an automobile, his foot might go to the left of the brake pedal, or it may not go far enough. Those particular habit systems on which we are all dependent for our language and for our skills in everything are interfered with by alcohol, and even by alcohol in 2.75 per cent by weight dilution.

The alcohol effect is in largest part a psychological matter. It is due to the constitution of the nervous system and to the constitution of the ethyl-alcohol molecule.

Man long ago discovered alcohol, liked the effect, liked the experience of feeling a little different than could be expected, liked getting out of the routine habits, and he is still doing it. Alcohol use at root is a psychological problem. It is out of this psychological problem that the social, economic, and political phases grow.

Now, may I speak of the fourth illustrative measure?

Mr. VINSON. Before you get to that subject, with respect to this illustration that you gave, you did not notice the effect of alcohol to which you referred, such as inability to get the key in the door?

Doctor MILES. Yes, indeed; I did.

Mr. VINSON. With 1¾ pints of 2.75 per cent beer?

Doctor MILES. Yes. I wish you had been present and judged the situation for yourself.

Mr. VINSON. I wish I had been, too.

Doctor MILES. If you had been there, certainly you could see when a man tried to stand quietly and could not.

Mr. VINSON. I am not talking about that. I am talking about the quantity of alcohol, diluted as you did the fluid, taken within a 20-minute period by seven or eight men. Do you mean to say that it so affected them that they were unable to put a key in the keyhole?

Doctor MILES. I did not literally work with keyholes.

Mr. VINSON. That is what I am saying. You do not mean to say that the effect of the alcohol upon the seven or eight subjects about whom you have been testifying was that it made them unable to put a key in a keyhole?

Doctor MILES. In effect it was similar. They were trying to stand quietly, they wavered 20 per cent more after the 1¾ pints of 2.75 per cent.

Mr. VINSON. Would such wavering cause a man who had imbibed that much alcohol within that given period to be unable to get his handkerchief to his eye?

Doctor MILES. No; I was not using the illustration in that connection. I was simply illustrating the habit systems of the nervous organism and the way in which the alcohol interferes with the ordinary chains of neurones and their performance.

Mr. VINSON. But it would require more alcohol in the system to cause the exaggerated situation to which you referred?

Doctor MILES. Yes. But the doctor at police headquarters commonly uses a pointing test when he is called to examine a man under the supposed influence of alcohol.

Mr. HILL. May I ask a question? How did you determine the percentage of unsteadiness when you had your subjects standing?

Doctor MILES. They stood below an instrument technically known as an ataxiameter, which is used for medical purposes, and there was attached a small helmet, with wire threads which went out, one to the right, one to the left, one to the front, and one to the back, and those went over dials which moved as the individual swayed, and the total amount of sway measured in one-sixteenth of an inch or millimeter was simply put down.

Mr. HILL. It was mechanically determined?

Doctor MILES. It was mechanically determined.

Mr. RAINEY. Did this mixture that you used contain as much starch or sugar as the ordinary beer of 2.75 per cent alcohol would contain?

Doctor MILES. Approximately as much, I think, because, you see, it contained 300 cubic centimeters of unsweetened grape juice, which had a calorific value of 200 calories, which is about one-fifth of a meal. If your demand for food is approximately 2,500 calories taken for the upkeep of your body per day, you would take about 1,000 calories per meal for three meals, so it was equal to about one-fifth of a meal, and that is what we are ordinarily thinking of beer amounting to.

Mr. CHINDBLOM. You had a grape juice with which you mixed raw material?

Doctor MILES. Yes.

Mr. CHINDBLOM. Do you think that that solution is of the same character and would have the same effect as alcohol produced in the fermentation of grape juice, or alcohol produced in the brewing of a malt beverage?

Doctor MILES. Yes, sir; it would have the same effect, and that has been proven very definitely by an English colleague, who experimented with beer and whisky, and he experimented with dogs and men and showed that it was immaterial, the source from which he got the alcohol; and, indeed, one of our most eminent pharmacologists in America, John J. Adell, professor of pharmacology at Johns Hopkins, has long ago proven that it is the ethyl alcohol content of such a beverage that is the chief constituent, the major constituent that produces the psychological effect which human beings derive from such beverages, and that there are only minor amounts of other substances which can have a similar effect.

If I may speak of this fourth measure, it had to do with such a thing as managing or steering a boat by a compass. I used an instrument which was an experiment. I called it a pursuit meter. That is what it was called in the shop when I was building it. In using this, the individual had to look at this instrument. It had connected with it an electrical unit which kept the needle moving back and forth. My subjects had to try to compensate for all of those motions at the end of a given period. I simply read off from the meters the amount of current that got by them, this produced the amount of failure of compensation, just as you might be able to have an instrument on your boat and check how accurately the captain or person at the wheel was guiding, and under the conditions of using this instrument, which I think corresponded somewhat to the management of machinery, where the machinery or dynamo must be attended by the industrial worker, he must account for the unforeseen things coming in, I found in this instance that the effects on the seven men, seven out of eight subjects demonstrated definite decreases in their ability to perform on this instrument following the diluted alcohol.

Effect of the alcohol is most marked about 85 minutes after injection, when it amounts to approximately 19 per cent, the amount of current getting past them, which they did not compensate for.

Mr. CHINDBLOM. You made a comparison between their performances before they took the alcohol and afterwards.

Doctor MILES. Yes, sir; always before and after the alcohol, and you see there were six days involved, and for each man there was a day on which I gave him the beverage and took the blood samples, and put him through for practice test. There was another day when I gave him the more concentrated beverage. Then there came a day when he had the beverage but did not have any alcohol. Then there came two days he did have alcohol; then another day when he did not have any alcohol.

Mr. Chairman, I have quoted at length from the evidence of Dr. Walter R. Miles so that there may be no controversy as to the probative force and effect of same. I maintain that it condemns this beer bill, and proves conclusively that beer containing 3.2 per cent alcohol by weight, which is 4 per cent alcohol by volume, is intoxicating, and in violation of the Constitution.

This bill should be defeated. I am hoping that there will be enough votes to defeat it to-morrow. If there is not, I feel sure that the President will veto it, and if he does not, I know that the Supreme Court will hold it unconstitutional.

Mr. HAWLEY. Mr. Chairman, I yield five minutes to the gentleman from Minnesota [Mr. MAAS].

Mr. MAAS. Mr. Chairman, I want to say to my friend from Texas [Mr. BLANTON] that I am a lame duck and really do not know very much at first-hand about this subject. I never had a glass of beer in my life. I can not tell, personally, whether it is intoxicating or not. But my good friend Volstead, who campaigned against me when I was the first wet in Minnesota to be elected to Congress since prohibition, says it is not.

Even the Volstead Act permits wine of considerably more than one-half of 1 per cent of alcohol. We have the authority of Mr. Volstead himself for this. Before the Committee on Rules of the House on Friday, June 10, 1921, he said:

> Personally, it is my impression that whenever that comes before the court the court will hold, as we intended they should hold, I take it, that cider or fruit juices not intoxicating in fact might be made in the home.

Mr. Volstead said as to the beer test of one-half of 1 per cent:

> I do not think that is the test as to fruit juices or cider. The test there is whether it is nonintoxicating in fact.

He then added as to homemade wine:

> My intention is this, that it might contain 1 or 2 or possibly 3 per cent without being intoxicating.

On revision of Mr. Volstead's remarks he changed the words "1 or 2 or possibly 3 per cent" to "considerably more," and so we have his authority for at least 3 per cent wine.

He made this statement before the Rules Committee in open hearing, and those proceedings of the Rules Committee I think have not been published. But I have the authority of John Philip Hill, our former wet leader in this House, for the facts as stated. He has photostatic copies of the unrevised remarks. If Mr. Volstead, who is the great authority, says that 3 per cent in wine is not intoxicating, then it can not be intoxicating in beer.

As a matter of fact, Mr. Chairman, this whole thing is a sham battle, and we all know it. The whole six hours is just wasted time. This is all going to be debated under the 5-minute rule to-morrow, and not a single vote is going to be affected by this debate to-day. This is not a question of whether we are going to bring back beer. Beer is here; it has never gone away. The drys talk about bringing it back. That is all nonsense. The sole question before this House is, Are we going to take the revenue from beer for the benefit of the Government, or are we going to continue to let the bootleggers have it. [Applause.]

I am satisfied in my own mind from the statement of facts that to legalize beer of a proper alcoholic content will be a great aid to temperance. At the time of the Civil War we were a hard-liquor-drinking nation. Ninety-three per cent of the liquor by volume consumed in this country was hard liquor, and only seven per cent was mild beverages—wine and beer. By 1919, when prohibition came into effect, through temperance education we had become a Nation of drinkers of mild beverages. Ninety per cent of the liquor consumed was mild beverages, and only 10 per cent hard liquor. Now, we are back to where we started. We consume 90 per cent hard liquor and only 10 per cent mild beverages. I think we should have included wine in this also, but I think to legalize even just beer will divert a considerable proportion of the drinking from hard liquor to the milder beverages.

As far as the constitutionality of this is concerned, that is a debatable question, perhaps, but the Supreme Court has ruled that Congress has the right to determine the alcoholic content. The Supreme Court did not say that one-half of 1 per cent was intoxicating. It said that Congress had the right to say one-half of 1 per cent is intoxicating. If Congress has that right, then Congress has the right to say 3 or 4 per cent is not intoxicating. The whole thing is summed up merely in the question of revenue, however. Too high a tax will merely be an aid to bootleggers and will not produce the expected revenue.

Mr. BRITTEN. Mr. Chairman, will the gentleman yield?

Mr. MAAS. Yes.

Mr. BRITTEN. Does not the gentleman feel as I do about revenue, that if we do not adopt this measure for revenue purposes, we will have to start slashing Federal salaries all over the United States?

Mr. MAAS. There is grave danger of that. We will probably also have to cut the Army and Navy some more. And as far as the Constitution is concerned, I think it is a more sacred obligation to uphold the national defense, because that provision was in the Constitution long before the eighteenth amendment.

Mr. COLLIER. Mr. Chairman, I yield 15 minutes to the gentleman from New York [Mr. SIROVICH].

Mr. SIROVICH. Mr. Chairman, ladies and gentlemen of the committee, the atmosphere of Congress seems to be surcharged with the excitement of the moment, on account of the passions aroused on the subject of the beer bill.

In the course of my remarks, I shall not endeavor to arouse your prejudices, stir up your emotions, or impose upon your patience. In the light of scientific truth, I shall endeavor to present a cumulative group of facts that I sincerely trust will appeal to your sense of reason as worthy of consideration, as to why this beer bill should pass.

Alcohol, which in this Collier bill, is represented by 3.2 per cent weight and 4 per cent volume, is one of the most important ingredients in beer. What is the significance of this alcoholic content? Alcohol may be viewed from three angles: First, is medicinal alcohol, which is absolute alcohol, 99 per cent in strength.

From time immemorial herbs, drugs, and chemicals have been used as agencies to restore health and alleviate pain. The only solution that these ingredients were soluble in was absolute alcohol. When any individual, wet or dry, took medicine, that person was consuming alcohol. In every hospital in the United States, in every city and State institution, in every sanatorium under the jurisdiction of the United States Army and Navy, we are to-day using medicinal alcohol when we give medicine to human beings to allay their anguish and to assuage their pain and suffering. So much for medicinal alcohol.

The second form of alcohol used in our Republic is industrial alcohol. It is the alcohol that is used in every industry and manufacturing plant throughout the length and breadth of our country.

Up to the year 1906 the Government of the United States placed a tax of $1.10 upon each gallon of alcohol, which went to the Treasury Department of our Nation. In 1906 various chambers of commerce of the United States and all the great manufacturing enterprises appealed to Congress to abolish the tax upon industrial alcohol, because all continental nations had relieved their manufacturers from paying it.

So in order to be able to compete in the foreign markets Congress abolished the tax on industrial alcohol on June 1, 1906. That industrial alcohol, however, which is 99 per cent in strength, should not be diverted to compete against medicinal alcohol and beverage alcohol, which was paying a tax, Congress passed a mandatory law on June 1, 1906, compelling the Government of the United States to pour poison into industrial alcohol in order that it might not be diverted to other bootlegging channels and compete with those that paid their taxes.

The third kind of alcohol that I want to call to your attention this afternoon, and to which I propose to confine myself, is beverage alcohol. Beverage alcohol has various groups and subdivisions. First, absolute alcohol, which contains 97 per cent pure alcohol; second, whisky, gin, rum, rye, cognac, and brandy, containing 48 and 54 per cent alcohol; third, the light wines, red wines, and champagne, which contain from 10 to 18 per cent alcohol; fourth, porter, ale, and stout, which contain between 4 and 8 per cent alcohol; fifth, beer, which is everything below 4 per cent alcohol. Thus, beverage alcohol is the medium which has satisfied the gustatory pleasures of all the civilized nations of the world as well as the people of the United States, prior to prohibition.

On the table before the Speaker's platform I have placed 18 bottles of beer, each containing about 3 per cent alcohol. Beside these bottles of beer there stands a similar-sized bottle of whisky containing 54 per cent alcohol. Between the two I have placed a bottle of milk. If any individual consumed the 18 bottles of beer, 12 ounces in content, containing 3 per cent alcohol, he would be consuming as much alcohol as is found in this 1 bottle before us, which contains 54 per cent alcohol. If you used one-half of 1 per cent alcohol beer, it would be necessary to drink 108 bottles to equal the amount of alcohol contained in this 1 bottle of whisky which is before us.

If an individual drinks a glass of whisky, within half an hour this whisky is absorbed through the stomach, goes into the portal circulation, from there into the liver, thence through the inferior vena cava into the heart and through the pumping action of the heart, and immediately distributed to every cell and issue in the human organism.

On the other hand, if you drink a bottle of beer, this beer is not absorbed within the stomach like the whisky. On the contrary, depending upon the food in the stomach, whether it be liquid or solid, it passes within four hours into the intestines. From the intestines the food and the beer, after being digested and worked upon by the gastric and intestinal secretions, is absorbed through the lymphatics and lacteals of the intestines, then poured into the portal circulation and into the liver, from there going to the heart and thus being distributed as nutriment to the cells and tissues of the whole body.

From the serious discussion and remarks that I have listened to by most of the speakers of Congress, the impression prevails that beer is a poison.

For the information and education of the House I have requested Doctor Doran, Prohibition Administrator of the Government of the United States, to prepare for me a table which I have right here before you, so that each Member of Congress can follow me closely, and which gives the respective value of the food products contained in cow's milk as well as beer.

Let us study together, ladies and gentlemen, the respective ingredients in milk and in beer and see the similarities and dissimilarities between them. Milk has 3.8 per cent protein, composed of casein, albumin, lactoglobulin, and galactin, while beer has 0.727 per cent, composed of albumoses, peptonea, amides. Proteids are composed of carbon, hydrogen, nitrogen, oxygen, sulphur, and iron. These chemicals are used to replace the worn-out tissues that are daily taking place in the human system.

In milk we have 4.5 per cent carbohydrates, while in beer we have 4.3 per cent. Carbohydrates have as their principal ingredient carbon. These sugars and starches, known as carbohydrates, are burned in the tissues and our cells, just as coal is burned in the furnace, to produce heat and energy and strength in the human organism.

In cow's milk we have 3.6 per cent fat, whereas in beer there is but a trace. Fats are also burned in the tissues of the body when the carbohydrates are consumed. They are used as substitutes whenever the tissues have burned up starches and sugars and are then called upon as reserves.

In milk we have 0.1 per cent citric acid, which is used as nature's antiseptic, whereas in beer we have 0.25 per cent lactic acid, which the great Professor Metchnikoff, former chief of the Pasteur Institute, contended was responsible in prevention of putrefaction in intestines. The destruction of these putrefactive organisms by lactic acid, in the opinion of Professor Metchnikoff, would prolong human life and be responsible for longevity.

The water content of milk is 87.3 per cent, whereas the water content of beer is 91.383 per cent, showing beer as having more water in it even than milk.

Now let us examine the composition of the ash of milk, which is 0.7 per cent, whereas in beer it is 0.23 per cent. The ash represents the most vital minerals present in both beer and milk. Mr. Chairman, ladies, and gentlemen of the Congress of the United States, no human being or animal can live only on proteid foods. Within a short time he must succumb. No mortal individual or animal can live alone on carbohydrate food. In a very short time death will claim him. No soul, mortal or animal, can live on fat alone. Within a short time death will claim him.

Every scientific authority in the world will proclaim to you that no organism, human or animal, can live alone on minerals, but every student of food values will advise you that a normal, healthy individual must eat proteids, carbohydrates, fats, minerals, water, and vitamins in order to live, thrive, prosper, and flourish.

When I complete the physiological action of the minerals contained in milk and in beer I am sure that I can scientifically prove to your satisfaction that with the exception of the alcoholic content in beer the minerals contained in beer and milk are almost identical. [Laughter and applause.]

Mr. Chairman, ladies, and gentlemen, I do not seek the gracious applause of the membership of this House. I only desire to continue to appeal to their reason by the further presentation of facts. In my differentiation of the chemical contents of milk and beer is the fact that in cow's milk we have 3.6 fats, whereas in beer but a slight trace. That difference should encourage the women of our country to drink beer, because there is hardly a trace of fat in it, so that they can not become fat; while, on the other hand, the minerals that it contains will make the womanhood of our country strong, sturdy, and vigorous. [Laughter and applause.]

Mr. Chairman, ladies, and gentlemen, the minerals that are contained in milk and beer are the most important constituents for the preservation of the activities of the cells and tissues of our body. The minerals are the building materials that are utilized by the cells to build up all the organs of our body.

In milk the first mineral that we find is potassium oxide. It is represented by 25.02 per cent, while beer has some 37.22. What is the function of potassium in the body? Potassium is present in the soft solid tissues of animal life. It is present in the corpuscles of the blood and it is found in the muscle protoplasm of the heart. Osmosis is obtained through its action. Potassium and sodium antagonize and balance calcium tissues and fluids. No human or animal can live without it. If you take a heart out of an animal's chest and put it into a solution of potassium, sodium, and calcium, it will live for days, showing how absolutely indispensable are these three minerals in the activities of our daily life.

Sodium oxide is 10.01 in milk and 8.04 in beer. Sodium is found in blood and other fluids of our body. It is present in the gastric, salivary, and intestinal secretions. Without its presence sugar, starches, proteids, and fats would be impossible. Sodium and potassium relax the musculature of the heart, whereas calcium contracts it. So that the alternate dilatation and contraction of the heart are due to the minerals of potassium, sodium, and calcium.

The amount of calcium oxide in milk is 20.01, whereas in beer it is 1.93. Calcium is necessary for the development and growth of bone and teeth in children. That is why it is richer in milk than in beer, because milk is for the infant and the child, while beer is the milk of the older people.

Calcium is indispensable and an absolute necessity for the blood, because without calcium a human being would bleed to death. Calcium, therefore, causes the coagulation of blood and stops bleeding. Ninety-nine per cent of the calcium that we take into our body goes to bone and tooth development.

Now we come to iron oxide, which in milk is 0.13, whereas in beer it is but a trace. Iron is found in the blood of every animal and human being. It is the medium which unites with oxygen which it carries to every cell and tissue of the body. Without iron in the blood life is impossible. Herbivorous animals live longer than flesh-eating animals, because they get more iron in their food.

The next mineral in milk is sulphur trioxide, represented by 3.84, while in beer it is 1.44. Sulphur is always found in contact with nitrogen in different proportions. In beans the relation is 50 to 1, in cheese 20 to 1, while in egg albumin it

is 10 to 1. Sulphur is necessary with silica for the development of the nails and the hair on the human body.

Now, we come to phosphoric pentoxide, which in milk is 24.29 and in beer 32.09. It is apparent, therefore, that there are more phosphates in beer than there are in milk. Without phosphorous compounds there would not be a living cell in the human body. Phosphorous is a necessary ingredient to the soil. Unless it is present there, plant life is stunted and underdeveloped. Phosphates are particularly found in the tissues and cells of the brain and nervous system. Egg yolk is very rich in phosphorous. Every student of physiology knows that malnutrition in human life is due to the inadequate supply of phosphorous compounds.

The lungs of the human being are acid in reaction, due to the phosphates. When enough phosphates are not taken into our system, the reaction of the lung is neutral and alkaline. This alkalinity of the lungs is the great cause for predisposing the human being to acquire pulmonary tuberculosis, commonly known as consumption. We therefore see that there are more phosphates in beer than there are even in milk.

We now come to the mineral chlorine, which in milk is 14.28 while in beer it is 2.91. Chlorine is found in table salt and is found in all secretory glands of the body.

Silica is absent in milk, whereas in beer it is 10.82. Silica is an antiseptic. It stimulates the nervous system and in cooperation with sulphur is responsible for the growth of hair and nails on our bodies. Animals use silica more than the human being. That is why they are covered with such a profuse overgrowth of hair and fur to keep their bodies warm. Fluorine is absent in milk, and there is but a trace in beer. Fluorine is responsible for the white of the eye and the color of the eyeball and is chiefly used in the human body to develop the enamel of teeth, which becomes destroyed, brittle, and broken in the absence of fluorine.

Thus you see, ladies and gentlemen, the presence of minerals in both milk and beer, that makes them both great foods for human consumption. Milk for infants, children, and invalids, and beer for adults. [Applause].

Mr. Chairman, ladies, and gentlemen, the great and only difference between milk and beer is the alcoholic content of 3.2 which is found in beer but is absent in milk. If nature had deposited but a small percentage of alcohol in milk it would have been responsible for the saving of millions of children who daily and yearly are consigned to premature graves because of the great contamination in millions of bacteria that are found in milk. Intestinal diseases and diarrhea have killed millions of children through the drinking of infected and contaminated milk.

A little alcohol in milk would have acted as a great antiseptic and germicide. The small quantity of 3.2 per cent by weight in beer is an antiseptic for the mouth, throat, stomach, and intestines of every human being who consumes beer.

Beer does not cause alcoholic gastritis, nor cirrhosis of the liver, nor kidney disease. No real scientist will uphold that view.

It is the strong alcoholic content of whisky, gin, rum, rye, and cognac and brandy that has been the cause of this pathological condition. [Applause.]

In my humble opinion, ladies and gentlemen, thousands of doctors throughout the length and breadth of our land will corroborate my statement when I contend that the smoking of cigars and cigarettes has produced more harmful effects, such as smoker's pharyngitis, catarrh of the throat, irritation and burning of the lips and tongue, causing cancer, as well as smoker's heart, a form of myocarditis, and even coronary disease of the heart and has sent more people to their graves than the drinking of beer as a palatable, refreshing, and wholesome beverage.

No one has arisen in this great historic forum to prohibit the use of cigars and cigarettes because of these conditions, and so, Mr. Chairman, ladies, and gentlemen, as one who never drank or smoked in his life, as a believer in temperance, preaching the gospel of moderation in every form of indulgence, not condemning the use of but the abuse of privileges of our life, I appeal to you to support and vote for this beer bill, which will make it possible to raise between two hundred and three hundred millions in revenue and place hundreds of thousands of working people back to work and be the media that will help us rise from the slough of despond and economic depression, back to prosperity and happiness, making it possible for the little ones to have their milk, for the grown-ups to have their beer, for the unemployed to go back to work to earn enough to buy bread and food with milk and beer for those that care for it. [Applause.]

Mr. BACHARACH. Mr. Chairman, I yield 10 minutes to the gentleman from Illinois [Mr. CHINDBLOM].

Mr. CHINDBLOM. Mr. Chairman, the pending bill, H. R. 13742, will modify the Volstead Act so as to permit the manufacture, sale, and transportation, where not prohibited by local laws, of beer having an alcoholic content of 3.2 per cent by weight, which is equivalent to 4 per cent by volume. It has been reported favorably by the Committee on Ways and Means as a revenue measure and is estimated to produce, with a tax of $5 per barrel, approximately $125,000,000 of revenue the first year of its operation; and when producing plants have been fully established and equipped, not less than $300,000,000 per annum.

In spite of the declarations of party platforms, the attitude of the individual Member of the House will doubtless be dictated by his personal conviction and situation. For myself, I could never believe that nation-wide prohibition would effectually control the liquor traffic or promote the cause of temperance in the use of alcoholic drink. I believe the experience of the country has justified this view. The eighteenth amendment became a part of the Constitution before I became a Member of the House. However, I have consistently supported enforcement legislation, and I believe a fair trial at enforcement has been made. That the experiment has been a lamentable failure is beyond question. As a result the sentiment of the country has changed tremendously in recent years.

While the organized leadership of the forces supporting national prohibition persistently deny this change of attitude on the part of the people, those who come in contact with the great masses know with certainty that this change has come and is widespread among our citizens of all classes. It is not confined to those who desire greater liberality in their personal habits but is also very pronounced among leaders in religious and reform organizations who do not limit their sphere of action to this single phase of our social life and who are deeply concerned about the lawlessness and corruption which have followed in the wake of national prohibition.

The House of Representatives, with all its failings and shortcomings, is the most representative body in existence of the people of the United States. The founders of the Republic designed that the Members of this House should be elected at frequent intervals in order that they might directly and speedily give expression to the views of the people as shown in the elections. There can be no doubt that recent elections have clearly demonstrated the desire of the people for repeal or modification of national prohibition. That sentiment was reflected in the declarations of all but one of the political parties, and that single exception was the Prohibition Party itself, whose candidates received hardly a handful of votes. On a question of public policy involving the exercise of the police power by the Federal and State governments, most assuredly the voice of the people is entitled to be heard. The question is not one of ordinary political or economic character upon which political organizations and their adherents have taken issue. It involves the habits and customs of the people, as to which that government always governs best which governs least. The principal issue involved, after all, is whether legislation on the use of alcoholic beverages shall be controlled by the National Government or by local governments of and within the States.

Some of the arguments advanced in this controversy impel me to say that, in my opinion, it is wrong to make of prohibition a moral or religious issue. At most, violations

of liquor laws are crimes established by statute, mala prohibita, and not inherent crimes, mala per se. The conscience of the ordinary man does not recognize the consumption of liquor as a crime. Every decent man in the community will rush to the enforcement of laws against murder, theft, assault, and other attacks upon person or property, but even the inebriate excites only sympathy and perhaps contempt but not a charge of criminal conduct. From childhood I have been familiar with the use of wine as a necessary element in the holy sacrament of the Lord's Supper. That practice arose out of the use of wine in the Hebrew feast of the Passover and is still followed by adherents of the Jewish faith. Thus, both Christians and Jews use wine in their essential religious rites. No sophistry or speculation can establish that the wine used by the Savior Himself was not of natural fermentation. Indeed, the Constitution and the Congress have recognized this and other similar facts in the exercise of religion by exempting sacramental wine from the prohibition of the eighteenth amendment. How absurd, then, to say that the legalization of a 3.2 per cent beverage involves a moral or religious question.

The principal argument against the pending bill will doubtless be upon the constitutional construction and application of the eighteenth amendment. If that amendment actually prohibits the manufacture, sale, and transportation of 3.2 per cent beer, the people will have to content themselves until the amendment itself has been repealed or modified. However, I do not believe that the legalization of malt beverages of the proposed alcoholic content will be held violative of the eighteenth amendment. It has frequently been said by both the opponents and the supporters of the eighteenth amendment that the United States Supreme Court has held that Congress has the power to define intoxicating liquor within the meaning of the eighteenth amendment, with the implication that the court would sustain any definition made by Congress. I do not concur in that view. I believe that any definition laid down by Congress must be reasonably within the text and intent of the eighteenth amendment. That amendment is in the nature of a penal statute and will be construed strictly as against alleged infractions. In passing upon the present definition limiting nonintoxicating liquor to beverages having less than one-half of 1 per cent of alcohol by volume, the Supreme Court said that in its opinion this limitation was not a violation of the discretion vested in Congress in passing legislation for the enforcement of the eighteenth amendment. In other words, the court apparently conceded that the definition of one-half of 1 per cent was not necessarily accurate, but was a liberal construction of the eighteenth amendment downward in the matter of alcoholic content. In fact, the courts have used as precedents decisions in narcotic cases in which not only narcotic substances but substances similar in appearance and taste to actual narcotics were held proper subjects of legislative prohibition in the aid of enforcement. There are those who argue that 2 per cent or even 2.75 per cent of alcoholic content might be held constitutional, but that 3.2 per cent goes too far. Assuming that 2 per cent were the exact scientific line of demarcation between intoxicating and nonintoxicating content, the Supreme Court has permitted a variation of 1.5 per cent below that standard, but it is now assumed that a variation of 1.2 per cent above that standard would not be tolerated. Without detracting in any way from the judicial power, prerogative, or duty of the United States Supreme Court, I am confident that court itself will hold that in a matter of public policy, involving in fact an innovation in the jurisdiction of the Federal administration, it will not interfere in a reasonable exercise of discretion by Congress, even when it includes the interpretation of public sentiment.

There is, in my opinion, another very serious question involved in this legislation. The Attorney General of the United States has called attention to the urgency of immediate action on the question of national prohibition. The very prevalent opinion on the part of the people that a change is imminent will make prohibition enforcement much more difficult than it has been even in the past. When and in what form the repeal or modification of the eighteenth amendment may be submitted by the Congress is a question of some doubt. There is one thing we can do to appease the demands of great masses of our citizens and, I think, even to aid enforcement of the amendment. That is, to pass the pending bill and, even if there is—as I do not concede there is—any question of the validity of this legislation, secure speedy determination of that question by the Supreme Court, and demonstrate to the people that Congress, at least, has been willing to do everything within its power to carry out the mandate at the polls. On these and other grounds I have no hesitancy, under my oath as a Member of the House, to support the pending bill.

Mr. Chairman, in conclusion let me say that the passage of this legislation will be but one step—a good step, but not a full or final step—in the essential program of balancing the Budget. This attainment is the sine qua non for our national welfare. It involves two major operations: The first, the reduction of Federal expenditures even to the extent of eliminating activities and services not strictly Federal in character or necessity, such as national prohibition; and the second, the enactment of a plan of taxation—personally I prefer a general manufacturers' sales tax such as was reported to the House in the last session by the Committee on Ways and Means—which tax will supplant the various discriminatory special taxes now in force and to provide the additional revenue required by reason of the failure of the present laws to provide adequate revenue. [Applause.]

[Here the gavel fell.]

Mr. SANDERS of Texas. Mr. Chairman, I yield eight minutes to the gentleman from Arkansas [Mr. GLOVER].

Mr. GLOVER. Mr. Chairman, ladies and gentlemen of the committee, we now have 13,000,000 out of employment in the United States. Taking the law of family average, at least each of these would have two depending on him as a breadwinner. This number added to the 13,000,000 men would be 39,000,000 that have no means of getting bread.

These people are to-day looking to Congress for some relief by way of legislation so that they can get employment and be good bread earners, and not be forced to stand in the bread line and receive bread at the hands of charity. They are not asking for beer; they are asking for bread.

When we met in session on the first day of this Congress, I thought this would be the first thing considered; but to my surprise, before the President was even notified that Congress had assembled, a motion was made to suspend the rules and submit the outright repeal of the eighteenth amendment back to the people, without any protection whatever of the dry States, as had been promised in the Democratic platform. It was in violation of the platform. We have just heard and read a discussion by two of the former Solicitors General of the United States, Mr. BECK and Mr. Palmer, as to the manner in which conventions would be set up in the States and the powers of the States in such cases, or, in other words, would it be controlled by the States or by the Federal Government, or by both.

I doubt if there is a man in this Congress now that knows what kind of conventions would be set up or controlled. Under the doctrine of State rights the States should prescribe their own way of submitting it and controlling this election. The makers of our United States Constitution in the beginning tried to safeguard amendments to it. The very able discussion of our two ex-Attorneys General centered largely on Article 5 of our Constitution, which reads as follows:

> The Congress, whenever two-thirds of both Houses shall deem it necessary, shall propose amendments to this Constitution, or, on the application of the legislatures of two-thirds of the several States, shall call a convention for proposing amendments, which, in either case, shall be valid to all intents and purposes, as part of this Constitution, when ratified by the legislatures of three-fourths of the several States, or by conventions in three-fourths thereof, as the one or the other mode of ratification may be proposed by the Congress.

There is no other way of submitting constitutional amendments except as ordered in this section. It provides that whenever two-thirds of both Houses shall deem it necessary that Congress shall propose it. Congress only about four months ago passed on this question and, by a vote in the House of almost 3 to 1, said they did not deem it necessary to submit an amendment for repeal of the eighteenth amendment. I ask by what authority anyone, under the article just quoted, has to demand of Congress that it submit an amendment which they have not deemed it necessary to submit and have decided by their vote should not be submitted at this time?

The Garner resolution was not the character of resolution guaranteed by the Democratic platform. The platform provided that the conventions should be purely representative conventions. There was not a word in this resolution that said it should be truly representative.

The platform further provides that in the submission of this question the dry States should be protected. There is not a word or syllable in the Garner resolution that protected dry States. The platform and the positive declaration of the nominee were that we should not have the return of the saloons that have in the past caused so much trouble. Any man who can read knows that saloons would be permitted under this resolution as it was offered. The nominee of our party in his acceptance speech at Chicago said, at page 25 in the Democratic campaign book, the following:

> I say to you now that from this date on the eighteenth amendment is doomed. When that happens, we as Democrats must and will, rightly and morally, enable the States to protect themselves against the importation of intoxicating liquor where such importation may violate their State laws. We must rightly and morally prevent the return of the saloon.

He says:

> We must rightly and morally prevent the return of the saloon.

How can that declaration be carried out unless, if the eighteenth amendment is repealed, Congress retains the power in itself to do that by proper legislation enacted by Congress? The Garner resolution did not retain that power in Congress. If it should pass as introduced, then Congress has lost all control of that subject except what it might have under the interstate commerce clause, and that could go no further than the regulation of shipments from one State into another.

The question is so important to our Nation and people as a whole that a representative of the people in this great hour should keep his feet on a firm foundation, his head clear to think the issue through, and, above all, to keep his heart and mind attuned to that which is right.

It is claimed that this proposed repeal amendment was written by the nominee of the Democratic Party of the Houston convention. A careful review of the platform adopted at that time shows that it declared for the enforcement of the Constitution and laws as they existed, and notwithstanding that the nominee carried on a campaign for the repeal of this amendment. I am sure he will be equally as generous as we were with him then.

President-elect Roosevelt, in a letter to Christian F. Reisner, of New York City, of September 12, 1932, stated that the Senators and Congressmen are duty bound to vote in accordance with the views of his constituents.

In my State we have laws prohibiting the manufacture, sale, or transportation of liquor. There has been no attempt by the legislature of my State to repeal that law, and I doubt if it would receive 10 votes in either house if it should be proposed by it when it meets on January 9, 1933. In other words, if I do not misjudge the sentiment and will of my people, or a very large percentage of them, they do not want a return of liquor to that State or to other States unless they are protected.

When hearings were started by the Ways and Means Committee on the Collier beer bill, it looked more like a convention of the brewers than the hearings of a revenue bill. I heard some of them testify. The gist of their argument was that the way to make people temperate was to give them beer with plenty of kick in it.

They said they did not want a return of the saloon, and to prevent its return they wanted it sold in beer parlors, hotels, restaurants, garages, grocery stores, road houses, and whoever wanted to, might sell it.

We have now in the United States 26,000,000 automobiles and motor-propelled vehicles. If 4 per cent beer were sold as indicated above, it would not be safe for a man or his family to drive on the highway. It would be unsafe for children to go to school in school busses, or to walk the highways.

An individual may not be visibly intoxicated to the extent that he may be identified as a "drunk," but his muscular reactions and mental activities may be so depressed that he is not able to respond as quickly as when normal; but when he runs over some one and kills him, the effects are just the same.

At the beginning of this session of Congress, in company with all my colleagues I took an oath to support the Constitution of the United States required by Article VI of the Constitution. I quote from that oath:

> I do solemnly swear that I will support and defend the Constitution of the United States, bear true faith and allegiance to the same, without any mental reservation or purpose of evasion.

This Constitution provides that the sale or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territories subject to the jurisdiction thereof, for beverage purposes is hereby prohibited.

I can not without a mental reservation or purpose of evasion, vote for a 4 per cent beer, when I know it is intoxicating and in violation of the Constitution. The interstate business now being done by busses, trucks, and cars would make it almost impossible to keep it out of dry States, if this law is enacted. It will cost more to enforce this act than it will bring in revenue.

You put a tax of $5 on a barrel of 31 gallons. Now, let us see how it will work. Suppose you only get one drunken man or boy out of each 31 gallons. It will cost $10 at least to try a drunken case. Then you have lost $5. Besides that, in 90 per cent of these cases the person could not pay the fine and he would have to be confined in jail. It will cost $1 per day to feed him. Suppose he only has to stay 10 days to satisfy the fine; then you are out $20 and get back only $5 in revenue, and that would go to the United States Government and not to the State whose burden it would be to enforce it.

The minority views of HEARTSILL RAGON, MORGAN G. SANDERS and JERE COOPER very clearly reflect my views of this question. They are Democrats and members of the Ways and Means Committee. They state, after hearing all the evidence, that they can not under their oath support this legislation. I quote two paragraphs from their report which are as follows:

> Therefore we can not under our oath support this legislation. We further submit that the proposed bill is not only in violation of the Constitution of the United States, but of the Democratic platform which calls for the "sale of beer and other beverages of such alcoholic content as is permissible under the Constitution." The above quotation from the platform shows that it was not the intent of those framing the platform to declare for legislation which would be violative of the Constitution.
>
> The very clear and definite proof before the Ways and Means Committee during the extended hearings on this bill shows conclusively that beer of alcoholic content of 3.2 by weight, which means beer of 4 per cent alcohol by volume, is intoxicating in fact and is the same type of beer which was generally produced and sold prior to the Volstead Act. The sale of such beer because of its alcoholic content is not permissible under the Constitution.

The further minority report by Messrs. HAWLEY, TIMBERLAKE, CROWTHER, and TREADWAY, all of whom are members of the Ways and Means Committee, shows that this bill is clearly unconstitutional and will likely be so held by the Supreme Court of the United States.

This bill provides for the sale of porter and ale, and they have been held by the courts to be intoxicating, and would be in violation of the Constitution. Personally, I know nothing about the effects of liquor or beer. I was in but one saloon in my life and then for the sole purpose of seeing what it looked like. I never drank a glass of beer

in my life, and a tablespoon would hold all the liquor I ever drank. I am not a fanatic on any question.

There is but little money in circulation now, and by the time this bill has been in effect for two years there will be none. I repeat, the people want bread, not booze. [Applause.]

Mr. HAWLEY. Mr. Chairman, I yield 15 minutes to the gentleman from Kansas [Mr. GUYER].

Mr. GUYER. Mr. Chairman and Members of the House, I listened with great interest to the distinguished scientist, the gentleman from New York [Mr. SIROVICH], and as usual I learned something. I learned that when a baby cries he should be given a bottle of beer instead of milk. You have been asking Kansas Congressmen to pass a beer bill to help agriculture, and now this great scientist comes here and proves that beer is a competitor with milk and asks us to use beer instead of milk.

Mr. SIROVICH. Will the gentleman yield?

Mr. GUYER. I regret very much that I can not. My time is too limited.

There is just as much logic in that as there is in all this talk about 3.2 per cent beer, or beer that is 4 per cent by volume, being nonintoxicating.

After having failed to pass a resolution submitting the eighteenth amendment to the States for its repeal as the first act of this last session of the Seventy-second Congress, the wet forces of this House now propose to nullify the Constitution by act of Congress. If the one was shameless for its indecent haste, this other gesture of the disciples of Gambrinus is even more reprehensible, because its object is not the orderly process of repeal provided in the Constitution but the studied and deliberate nullification of the Constitution itself and involves the violation of our solemn oath to support and uphold the Constitution, which includes the amendments as long as they are not changed by the will and act of the people as provided in the Constitution.

I hold that the mere fact that some people are thirsty does not justify any short cuts to the brass rail, however loud and long the wail for beer. In their wisdom the framers of the Constitution made it difficult to change or amend, and the same provision makes it difficult to change after it is once amended. The great founder of this Nation warned against innovations and frequent changes; and his wise admonition has been so well followed that, except for the first 10 amendments whose ratification, in fact, was contemporaneous with that of the Constitution, in a century and a half, in reality, only nine amendments have been ratified by the States.

Maybe I made a mistake when I said that some people were thirsty for beer. Did anyone come before the Ways and Means Committee and ask them to relieve their thirst? No. It was the brewers who are so anxious to sell the beer who sat in with this great committee and advised concerning the alcoholic content, how much alcohol was necessary to lure the necessary victims of this narcotic poison in order to balance the Budget, and how much tax this traffic in human degradation would stand without encouraging their rivals in the debauchery of the public, the bootleggers, and how much of the swag the Government should receive for its part in the degradation, desolation, and destruction of the American home.

The people themselves placed the eighteenth amendment in the Constitution, which forbids the traffic in intoxicating liquors. Until the people themselves, according to the provisions of the Constitution which they made and amended, have changed the Constitution, we as Members of the House of Representatives, solemnly sworn to support and uphold the Constitution, violate our oath of office in spirit when we vote to legalize the traffic in 3.2 beer, which everybody knows is intoxicating and which everybody knows would not be provided for in this bill if it was not intoxicating.

There is reason and logic in efforts to repeal the eighteenth amendment so that intoxicants can be legally sold, and no odium should attach to anyone who votes to submit such an amendment to the States for ratification if he honestly believes it to be the best policy in dealing with the liquor problem. But this effort to legalize the sale of 3.2 beer without first repealing the eighteenth amendment is purely nullification of the Constitution by act of Congress. The Constitution made and amended by the people is the supreme law of the land and Congress has no power, directly or indirectly, to trample upon the will of the people as expressed in that Constitution.

But you say this beer is nonintoxicating. Then I ask why pass any bill? You have nonintoxicating beer now, which obviates any necessity for any such law. Why not tear the mask off and honestly say you can not wait on the deliberate process provided in the Constitution so we intend to nullify the eighteenth amendment by passing this beer bill. Hypocrisy never helped any cause, good or bad. There never was a better example of hypocrisy than the claim that this beer provided in this bill is not intoxicating. Anyway, under the smoke screen of 3.2 beer, beer of every alcoholic content would be sold if this 3.2 did not prove strong enough for the trade. When you vote for this bill your constituents are going to ask you some questions. They will ask you about that ironclad oath you took to support and uphold the Constitution. You are not even obeying it when you vote for this law. They will probably ask you if you hold all parts of the Constitution in like respect. Do not think for a moment the people back home are not watching us here to-day. A million eyes are on the record of this vote on this bill. These millions are not making a great deal of noise. They were not in that howling mob in the galleries at the Chicago conventions. But underneath their steady gaze sleep smoldering, volcanic fires that will blaze with fury in the elections of 1934. These millions place principle above party and the welfare of their countrymen above revenue. Their voices will be heard in every precinct in every congressional district in this Nation. They will have something to say about mandates in a battle where the issues will be clear and unmistakable.

One of the advantages claimed for this beer bill is that it will banish the bootlegger. The gentleman from New York [Mr. O'CONNOR] declares it will. Experience in the past does not support his contention. The Kansas City Star is one great metropolitan newspaper that does not and never did owe anything either to the brewers or the liquor traffic. More than a quarter of a century ago its founder and owner, the late Col. William Rockhill Nelson, excluded all liquor advertisements from his paper. After a year's experiment his advertising manager asked Mr. Nelson if he knew what it was costing his paper to do this. When told that it cost $65,000 per year, which at that time was no small amount to deduct from the income of a daily paper in a city of less than 250,000 people, Colonel Nelson replied that the Star could afford it. Under that highly decent policy that scorned to divide the swag with the saloon keeper and his allies the Star prospered so that Colonel Nelson was enabled to leave to the city, whose destiny and prosperity he helped to shape and build, a fortune greatly in excess of $10,000,000 as an art foundation, which already has taken form in one of the most magnificent galleries on this continent. This paper, still following the policy of Colonel Nelson, has this to say about the bootlegger in an editorial on December 9 under the title "Beer Wouldn't Stop Bootlegging," published in the Kansas City Times, morning edition of the Star. This editorial so lucidly states the facts that I will read it into the RECORD:

BEER WOULDN'T STOP BOOTLEGGING

Foolish claims by Members of Congress in support of legalized beer are understandable only on the ground that certain Members of Congress are accustomed to making foolish statements. Even a spokesman for the brewers has been frank enough to admit that legal beer would have but a limited effect on the bootlegging problem. But Representative O'CONNOR, of New York, has a broader imagination. He says it will put the bootlegger out of business. Presumably, he means the bootlegger of beer, who has not been the big and troublesome offender in the illegal booze traffic.

But that legalized beer, liquor, and other intoxicants combined will not bring an end to bootlegging is best proved by past experience. The situation in Kansas City, as revealed in the administration of Mayor Beardsley more than 25 years ago, is familiar.

Then it was shown by a careful survey that only about one-fifth of the places selling intoxicants here were doing it legally. The others, more than 2,000 of them, were evading the license laws in one way or another. A similar condition existed elsewhere in the old days. Comparable figures have been given for Pittsburgh, Philadelphia, Chicago, and other centers.

The dispensary system in South Carolina, similar to the present Canadian plan, did not end bootlegging there. The maintenance of an expensive force of State revenue officers was necessary, and their work was imperfect. Nor has the system operating in Canada to-day stopped bootlegging. A member of one of the provincial liquor boards has stated that more booze was being sold by bootleggers than by the Province itself through its legal system.

Present-day bootleggers in the United States would not give up their business and settle down to honest work or idleness because of the mere fact that beer, or liquor, had been legalized. This fact and others like it must be kept in mind, whatever may be the conditions that now have made some change from the prohibition system desirable or inevitable. Nothing will be gained and much harm will be done by impossible claims in behalf of legalization.

What the country needs, if it can be had, is a better system than that now existing. Only when cautious attention is given to all the facts can such a system be devised. As to bootlegging, nothing short of most determined enforcement will hold it in check, whatever the system adopted.

There are two most important matters to consider before we pass this bill. One I have referred to, that of its violation of the Constitution which forbids the manufacture and sale of intoxicants. The other question of most serious import is that this bill puts no restriction whatever on the distribution of beer. This would insure the return of the saloon which both parties declared against. This bill provides for a beverage so close to that of preprohibition days that the difference is negligible. That beer was excluded with other liquors because it was plainly contrary to both the spirit and letter of the eighteenth amendment and the Volstead Act.

Laying aside for the moment the moral responsibility of Members of Congress in passing such an obviously unconstitutional statute which faces a veto from any President who understands and respects the Constitution of the United States, or lacking that, the endless technicalities attending a decision in the courts, I want to call the attention of the House to the fact that this bill places the whole liquor situation just as it was prior to the ratification of the eighteenth amendment. That is the regulation of the traffic would be left to the States for which of course there can be no constitutional authority while the eighteenth amendment remains a part of the Constitution. This would reinstate the old saloon with all its ancient evils. How can Members of this House justify their vote for such a bill when there was one thing, if nothing else, that all agreed upon with respect to the liquor question, and that was that there should under no circumstances be a return of the saloon.

It has been claimed for this bill that it would produce $300,000,000 revenue a year. To raise that amount of revenue at the tax rate of $5 per barrel would require the consumption of 60,000,000 barrels of beer. If each gallon of the 31½ gallons in a barrel produced 12 drinks these 60,000,000 barrels would produce 22,680,000,000 drinks. At 10 cents each this would consume $2,268,000,000 of the peoples money and since it is said here that beer is the workingman's drink it would mean that $2,268,000,000 would be subtracted from the money that otherwise would go for clothing, schooling, and food for the workingman's family. How can any Congressman in this hour justify such an economic waste as such a spree would entail. That would be a tax of $75 on an average family of five. Of this the United States Treasury would get $12.50 and the brewers $62.50 and the people nothing of value but plenty of want and suffering. When you vote for this bill you are imposing a per capita levy of $17.50. This country certainly must be in dire straits if we must wring from poverty and misery this tribute of blood from those who are defenseless before this juggernaut of the brewers.

The CHAIRMAN. The time of the gentleman from Kansas has expired.

Mr. BACHARACH. Mr. Chairman, I yield five minutes to the gentleman from Wisconsin [Mr. SCHAFER].

Mr. SCHAFER. Mr. Chairman, it is remarkable to hear the oration of the distinguished gentleman from Kansas [Mr. GUYER] condemning the legalizing of 4 per cent beer, particularly in view of the fact that at the last session of this very Congress he voted to practically legalize 9 and 10 to 14 per cent racketeer beer, made by alley brewers, when he voted for the tax on brewer's wort, and did tax by indirection what he does not now have the intestinal stamina to tax by direction. [Applause and laughter.] I am somewhat surprised to find some of these Democratic brethren like the gentleman from Florida [Mr. GREEN], the gentleman from Texas [Mr. LANHAM], the gentleman from Texas [Mr. BLANTON] oppose this bill because of constitutional reasons. I now yield so that any one of the Democratic brethern from below the Mason and Dixon's line who oppose this bill on constitutional reasons can rise in their seats and advise me and the rest of the Members of the House and the country what percentage was promised in the platform plank of the Democratic Party when they were getting wet votes in wet territory. I pause. No reply.

This pending bill will do more than raise revenue. First, it will aid the cause of temperance. Second, it will raise revenue. Third, it will employ hundreds of thousands of people in the great brewing and related institutions and other business enterprises. Fourth, it will use some of the surplus grain products of the American farmer; and fifth, it will stimulate our foreign commerce by using the grain produced on American farms by American workmen in the manufacture of beer in American institutions, which will be shipped to all parts of the world, just as was shipped the beers that made Milwaukee famous before prohibition.

I do not agree with one provision of this bill. I am therefore going to offer an amendment at the proper time to strike out sections 6 and 7. In the committee report the committee calls attention to the fact that these sections are necessary to protect the dry States. That means to protect the prohibition States. If this beverage is nonintoxicating in fact, why should the Federal Government set out its long arm at a great expense to the American taxpayer to protect some of the States so that a palatable nonintoxicating beverage may not be shipped into them? There is no more reason than there is to have the Federal Government send Federal agents out to protect shipments of Coca-Cola or some of these other synthetic concoctions and soft drinks that Ben sells out here in the Republican cloakroom. [Laughter and applause.]

I believe that the majority committee report was written by a Democrat who was recently converted to the wet cause. If the Supreme Court would take into consideration the committee report, they would hold this bill invalid in five minutes. Why? Because, on page 4, the majority report indicates as one of the major premises for holding 3.2 per cent beer by weight or 4 per cent by volume nonintoxicating is the consumption of food with it. I quote from said report:

Also, it should be assumed that the beer is to be drunk as it is generally drunk; that is, in limited quantities and with food. It is common knowledge that the effect of the consumption of alcoholic liquor on an empty stomach is much different than when taken with or after a meal. The presence of solids in an alcoholic beverage, as in beer, or the presence of food in the stomach, hold the alcohol back from its rapid passage through the stomach wall into the blood stream and allow some it to be absorbed through the intestines. In this way the rate of absorption into the blood is slowed down and the alcohol is allowed to pass off before there is any large accumulation in the system.

If that is one of their major premises indicating that this is a nonintoxicating beverage, why did not the committee then make provision for the use of food and prescribe that so much food should be taken into the stomach before the beer is drunk, whether free lunch or food which is sold with the beer? I repudiate that ridiculous allegation of the committee majority report, and I reiterate that 3.2 per cent by weight, which is 4 per cent by volume, is nonintoxicating in fact, whether taken on an empty stomach or whether taken on a full or partially full stomach, notwithstanding that Bishop Cannon indicated in his testimony that he had knowledge of two persons who became intoxicated from

drinking a bottle of one-half of 1 per cent beer. Perhaps the gentleman from Florida [Mr. GREEN] and other southern Democrats who oppose this bill want to revise the one-half of 1 per cent in the Volstead Act downward to less than one-half of 1 per cent, because Bishop Cannon said that some of his acquaintances became intoxicated on one-half of 1 per cent. From their opposition to this bill it appears that they interpret the Democratic platform with reference to modification of the Volstead Act to mean downward and not upward. [Applause.]

The CHAIRMAN. The time of the gentleman from Wisconsin has expired.

Mr. COLLIER. Mr. Chairman, I yield five minutes to the gentleman from New Hampshire [Mr. ROGERS].

Mr. ROGERS. Mr. Chairman, like the second from the last speaker, I come from a State which is commonly called bone dry, which became bone dry long before the Volstead Act and eighteenth amendment were heard of; a State the legislature of which I was a member when the bone dry bill was passed; a State which in 1919 voted to ratify the eighteenth amendment, at which time I was also a member of the house of representatives; a State which last month reelected a bone-dry, 100 per cent prohibition governor and a bone-dry Congressman from the second district by more than 5,000 majority to succeed my distinguished friend and colleague Mr. WASON, from the second district, who recently voted against the submission of the repeal of the eighteenth amendment; yet I take the position that for the welfare of the Nation this bill should be passed. As a member of the New Hampshire Legislature I voted against ratification of the eighteenth amendment, and I have consistently pursued that policy from that day to this. [Applause.]

I favor the enactment of the legislation provided by this bill for two reasons: It will produce great revenue in this time of need. First and foremost, however, I believe the time has come when we, as American citizens, ought to realize the moral obligation which we have to correct abuses which exist under the present law. It has been well said that obedience to law is liberty. There can be no liberty without obedience to law, and there will be no obedience to laws which do not command the moral respect of a majority of our people. [Applause.] That is the fundamental difference between the Volstead Act and laws against arson, bribery, embezzlement, larceny, homicide, rape, highway robbery, or any of the other statutory crimes of which we can think. The great moral consensus of opinion is against such crimes, whereas the majority of people, whether 6 out of 10 or 8 out of 10, see no moral harm in a man taking a drink of beer. So, I repeat, that we should get this iniquitous provision out of our law and we will then have on our statute books an act which will command the moral respect of a great majority of our people.

In conclusion, I have heard the Bible referred to here to-day. I want to leave with you the words of a great American statesman, a great American legislator, a native of my own State, New Hampshire, and a distinguished predecessor who represented the district which I now have the honor to represent, Daniel Webster. In connection with our duty to vote for this bill, I ask you to bear in mind what he said about duty:

> Our whole concern in this matter is to do our duty and let consequences take care of themselves. A sense of duty pursues us ever. It is omnipresent like the Deity. If we take to ourselves the wings of the morning and dwell in the uttermost parts of the earth, duty performed or duty violated is still with us for our happiness or our misery. If we say that the darkness shall cover us, in the darkness and in the light our obligations are yet with us. We can not escape their power nor flee from their presence. They are with us in this life, will be with us at its close, and in that vast scene of inconceivable solemnity which lies yet further onward, we still find ourselves surrounded by the consciousness of duty, to pain us wherever it is violated, and to console us in so far as Almighty God may have given us grace to perform it.

[Applause.]

The CHAIRMAN. The time of the gentleman from New Hampshire has expired.

Mr. SANDERS of Texas. Mr. Chairman, I yield 10 minutes to the gentleman from Mississippi [Mr. WHITTINGTON].

Mr. WHITTINGTON. Mr. Chairman, it took the adoption of the eighteenth amendment to empower Congress to pass the Volstead Act. It will take the repeal or the modification of the eighteenth amendment to empower Congress to amend the Volstead Act so that the legislation may be either satisfactory or satisfying.

The eighteenth amendment prohibits the sale of intoxicating liquors. The Volstead Act defines intoxicating liquors as having an alcoholic content of one-half of 1 per cent or more by volume. This is equivalent to two-fifths of 1 per cent by weight.

PLATFORM

The Democratic platform of 1932 advocated the repeal of the eighteenth amendment to be submitted to conventions and pending repeal favored an "immediate modification of the Volstead Act to legalize the manufacture and sale of beer and other beverages of such alcoholic content as is permissible under the Constitution."

During the campaign of 1932 I repeatedly announced that I stood on the Democratic platform with respect to the eighteenth amendment and the Volstead Act. At the same time I stated that intoxicating liquors could not be sold until the eighteenth amendment is either repealed or modified. I also stated that personally I preferred the submission rather than the indorsement of the repeal, and that I preferred ratification by legislatures rather than by conventions. All previous amendments to the Federal Constitution have been submitted to legislatures, and I know of no provision in any of the States for conventions to ratify constitutional amendments.

REPEAL

On Monday, December 5, 1932, the first day of the present session, I voted for the so-called Garner resolution to repeal the eighteenth amendment by conventions in the several States. This amendment followed the language of the Democratic platform, and I voted to submit the amendment. Personally I opposed the consideration of the amendment without a report by the Judiciary Committee, to which it should have been referred. Personally I believe the amendment should have reserved to Congress the regulation and control of intoxicating liquor, to protect the dry States and prevent the return of the saloon. Inasmuch as there are no provisions in the States for conventions, I believe that the consideration of the resolution would have been hastened by submission to legislatures. Some advocates of repeal maintain that Congress should provide for conventions to pass upon the amendment. The Constitution of the United States was submitted to conventions. These conventions were called by the several States. Only conventions called by the States were in contemplation when the Constitution was adopted. I believe that Congress has no power to call conventions in the States for the ratification of amendments. Such a power would be an encroachment upon the rights of the States. I do not believe that Congress has any power to call such conventions, and, furthermore, I maintain that if Congress has such power it ought never to be exercised. The States should be supreme in all elections and in all matters respecting the qualifications of voters. However, I am of the opinion that the Webb-Kenyon Act, which is still in force, substantially protects the dry States and will thus prevent the return of the saloon. The Supreme Court of the United States on May 15, 1932, in the case of McCormick *v.* Brown (76 L. Ed. 1017), decided that the Webb-Kenyon Act was not repealed either by the eighteenth amendment or by the Volstead Act. In the event the eighteenth amendment is repealed the States where prohibition remains are thus substantially protected.

PUBLIC SENTIMENT

Laws regulating customs and habits should be by statute rather than by constitution. Statutes respecting social relations depend upon public sentiment for their enforcement. Public sentiment changes and constitutions are more difficult to change than statutes. The advocates of the eighteenth amendment insisted that it should be submitted to the people so that their will might be determined. Those who oppose the amendment now invoke the same argu-

ment. The majority rule should obtain in the States and if the majority oppose the eighteenth amendment, it should be repealed. A referendum will determine public opinion. There is need for a campaign of education. Whenever public sentiment justifies, real temperance will be promoted by the expression of the people at the ballot box.

BEER

While I voted to submit the repeal of the eighteenth amendment, I am opposed to the pending beer bill because I believe it violates the eighteenth amendment. It provides for the sale of beer, ale, porter, and other similar fermented liquor with an alcoholic content of 3.2 per cent by weight and 4 per cent by volume. It thus increases the percentage of alcohol from one-half of 1 per cent to 4 per cent. The beer authorized is the ordinary pre-prohibition beer, which was generally regarded as intoxicating. The bill does not declare the beer non-intoxicating in fact, nor will the House so declare. How, then, could the Supreme Court reasonably be expected to sustain the constitutionality of the bill? It is my conviction that the sale of 4 per cent beer is not permissible under the Constitution and hence is not embraced within the Democratic platform. The platform provides for modification within the limits of the Constitution. Four per cent beer violates both the platform and the Constitution.

EIGHTEENTH AMENDMENT

The spirit and the purpose of the eighteenth amendment was to prevent the use of alcoholic liquors as beverages. The United States Supreme Court, in the case of Rhode Island *v.* Palmer (253 U. S. 350–387), announced that the court could not be expected to approve any attempt "to defeat or thwart the prohibition" in the amendment.

VOLSTEAD ACT

While the Volstead Act prohibits the sale of liquors containing one-half of 1 per cent or more of alcohol by volume, I do not believe that such liquors are intoxicating in fact. However, the definition in the Volstead Act has been approved by the Supreme Court of the United States. In the National Prohibition cases (253 U. S. 350–387), the Supreme Court of the United States upheld the power of Congress to define intoxicating liquors as containing one-half of 1 per cent or more of alcohol. Congress, in passing the Volstead Act, took into consideration the experiences and the laws of the States in liquor and prohibition legislation. The Bureau of Internal Revenue by regulation had defined liquors having one-half of 1 per cent alcohol as intoxicating. The brewery interests in opposing the encroachments of the soft-drink establishments were largely responsible for the definition. For 20 years before the Volstead Act was adopted the Federal Government treated all liquor having one-half of 1 per cent or more of alcohol as intoxicating. It may not be poetic justice, but it is certainly the irony of fate that the Volstead Act contains the very definition for which the brewers had always contended.

ALCOHOLIC CONTENT

As to permissible alcoholic content pending the repeal or modification of the eighteenth amendment, it is well to keep in mind that the Supreme Court of the United States has substantially held that the sale of liquors that are intoxicating in fact can not be authorized by Congress. I quote from the decision of the Supreme Court of the United States in the case of Ruppert *v.* Caffey (251 U. S. 264, 284, decided in January, 1920), in which case the opinion was rendered by Mr. Justice Brandeis, who made a survey of the liquor laws of the States.

> A survey of the liquor laws of the States reveals that in 17 States the test is either a list of enumerated beverages without regard to whether they contain any alcohol, or the presence of any alcohol in a beverage, regardless of quantity; in 18 States it is the presence of as much as or more than one-half of 1 per cent alcohol; in 6 States, 1 per cent of alcohol; in 1 State, the presence of the "alcoholic principle"; and in 1 State, 2 per cent of alcohol.
>
> Thus in 42 of the 48 States—Maryland appears in two classes above—a malt liquor containing over 2 per cent of alcohol by weight or volume is deemed for the purpose of regulation or prohibition intoxicating as a matter of law. Only one State has adopted a test as high as 2.75 per cent by weight or 3.4 per cent by volume.

The Supreme Court of the United States in the national prohibition cases (253 U. S. 287) declared:

> While recognizing that there are limits beyond which Congress can not go in treating beverages as within the power of enforcement, we think those limits are not transcended by the provision of the Volstead Act (Title II, sec. 1) wherein liquors containing as much as one-half of 1 per cent of alcohol by volume and fit for use for beverage purposes are treated as within that power.

It will thus be seen that the Supreme Court of the United States has already declared that in legalizing the sale of liquors there are limits beyond which Congress can not go and has clearly indicated that it will be unconstitutional to attempt to legalize the sale of liquors that are intoxicating in fact.

The Supreme Court of Mississippi in the case of Fuller *v.* Jackson (52 Southern, 873) held:

> The court takes judicial notice of the fact that liquor containing more than 2 per cent of alcohol by weight will intoxicate.

Moreover, the State of Mississippi now prohibits the sale of beer or any other malt liquor, no matter how small the alcoholic content, and the statute has been sustained by the Supreme Court of the United States. (Purity Extract Co. *v.* Lynch, 226 U. S. 192.)

If the Volstead Act is amended, no beer can be sold in Mississippi unless the legislature repeals or modifies the prohibition statutes. If the eighteenth amendment is repealed, intoxicating liquors can not be sold until the prohibition statutes in Mississippi are changed.

The Supreme Court would evidently hold that the words "intoxicating liquors," in the eighteenth amendment, must be construed to mean now substantially what they meant when the amendment was adopted. It would therefore appear that beer with an alcoholic content of 2.75 by weight would seem to be the maximum limit which the Supreme Court would sustain. While Congress has the power to ascertain facts, that power is not unlimited, especially in view of the announcement of the courts that the amendment was intended to prevent the use of intoxicating liquors as a beverage.

I am not unmindful of the need of revenue, but revenue can not be provided by violating the Constitution. There is a public demand that the Government should receive the benefits from the sales of intoxicating liquors that now accrue to the bootlegger. But one violation of the law does not justify another. I advocate a tax on liquor that is permissible under the Constitution. In opposing 4 per cent beer I am standing squarely on the Democratic platform.

The court of last resort has clearly indicated that Congress is without power or authority to legalize the sale of any liquors that are intoxicating in fact. The great weight of authority is that liquors containing 4 per cent alcohol by volume, as provided in the pending bill, are intoxicating in fact. The supreme courts of 42 of the 48 States have held that liquors of 2 per cent and less, by statute as well as by common knowledge, are intoxicating.

SUBSTITUTE

As the so-called drys are making mistakes in opposing a referendum on the eighteenth amendment, so it is that the so-called wets are making a mistake in insisting upon an amendment that does not protect the dry States or prevent the return of the saloon, and, pending repeal, the wets are making a greater mistake in insisting upon the sale of liquors that are intoxicating in fact. Repeal must be accompanied by a better substitute. The question that occurs to all thoughtful minds is: After prohibition, what?

The people of the United States are determined that there must be some regulation and control of the liquor traffic and that the saloon must never return. The substitute must be better than prohibition. Mere repeal without a better substitute would lead to chaos and confusion. Liquors, wherever sold, are regulated and controlled. By insisting upon legalizing the sale of intoxicating beer, the repeal of the eighteenth amendment will be delayed. There will be a revulsion of public sentiment. The so-called wets should be good sports. When the amendment is repealed or modified intoxicating liquors may be sold, but the saloon will

never be tolerated. The country should know what is to take the place of prohibition, and the people should be prepared for the substitute before the repeal. If the drys, by opposing a referendum, are responsible in any measure for nullification, the wets, by failing to provide a better substitute, will either defeat or delay the repeal of the eighteenth amendment.

PENDING BILL

I want to be liberal in modifying the Volstead Act pending repeal. According to the experience of all the States, as a matter of common knowledge, the maximum limit for beer until the Constitution is amended would be 2.75 by weight or 3.4 by volume. The sale of such beer was permitted during the World War. If this content is too liberal, my reply is that one-half of 1 per cent is too narrow. There is a general demand for modification.

I shall support an amendment to the pending bill to provide for 2.75 beer by weight. I believe that any beer with a larger alcoholic content would certainly be intoxicating in fact and thus in violation of the eighteenth amendment.

The pending bill is not only unconstitutional but it is inconsistent and contradictory. In section 2 it declares that one-half of 1 per cent by volume means 3.2 by weight. The proponents of beer are hard put to it to ask Congress to enact a legislative falsehood. Again, section 6 of the bill invokes the so-called Webb-Kenyon Act. While declaring beer nonintoxicating in one section, in another section of the bill the liquor is treated as intoxicating. In section 7 of the bill the so-called Reed amendment is invoked. There is, therefore, a confession in the bill itself that the liquors to be sold are intoxicating. While called nonintoxicating they are treated as intoxicating.

Moreover, there is no provision for the control or regulation of the sale of beer. All countries that permit the sale provide regulations as to places of sale. The bill really gives to the brewers a monopoly of the liquor traffic and contains no prohibition whatsoever against the return of the saloon.

The submission of the eighteenth amendment is one thing, but the modification of the Volstead Act to provide for the sale of intoxicating liquors is quite another thing. I favor submission but I oppose nullification. While the Supreme Court has the final word, my oath as a Member of Congress requires me to oppose any and all legislation which violates the Constitution. For a Member of Congress to say that the question of constitutionality is for the Supreme Court, is to evade his duty and responsibility as a legislator.

Neither public sentiment nor party platform requires or justifies the passage of any law that is not within the limits of the Constitution. From our own observation and as a matter of common knowledge, as well as a result of the adjudications in practically all of the States of the Union, liquors with an alcoholic content of 4 per cent are intoxicating in fact.

The bill provides for the sale of ale and porter. In the case of Ruppert *v.* Caffey (251 U. S. 303), Justice Brandeis said:

> Everybody knows that ale and porter are intoxicating.

If Congress legalizes the sale of liquors that are not intoxicating, it will not satisfy the proponents of the bill. If Congress undertakes to legalize the sale of intoxicating liquor, it will be in violation of the Constitution.

TEMPERANCE

There is no perfect solution of the liquor problem. All governments either prohibit, regulate, or control. All advances and improvements in solving the problem have been made over the organized opposition of the selfish liquor interests.

When the pending bill was introduced it provided for the sale of beer containing alcohol 2.75 by weight. The representatives of the breweries and the distilleries appeared before the Ways and Means Committee and urged the increase of alcoholic content to 4 per cent by volume. Such beer was the ordinary beer that was sold in pre-Volstead days. Beer and other intoxicating liquors have always received the same legislative treatment. The State that prohibits one prohibits the other. Licenses and taxes were alike required for the sale of both malt and spiritous liquors, when permissible.

If 4 per cent beer is not intoxicating in fact, there is no occasion for the repeal or modification of the eighteenth amendment, in so far as beer is concerned. The breweries opposed the eighteenth amendment because they maintained that they could not sell beer under the amendment. They now take advantage of public sentiment and urge the sale of beer in violation of the amendment. The problem will never be solved by the selfish wets or by the fanatical drys. The extremists, whether for or against prohibition, will delay a solution of the problem. The true solution of the matter, in my judgment, is for each State to determine its course. The Federal Government should protect the States in the determination of their rights. One extreme must not be followed by another. Reason and tolerance must obtain. The unselfish judgment of the nation, with due regard for public opinion, must prevail. There should be a spirit of conciliation. There may be a compromise of policy but not of principle. All substitutes and all amendments should promote temperance. They must provide for control and regulation.

If the eighteenth amendment is repealed and if the Volstead Act is modified, repeal should be followed by progress and modification should preserve the benefits and eliminate the evils of prohibition. [Applause.]

[Here the gavel fell.]

Mr. COLLIER. Mr. Chairman, I yield one-half of the time remaining to me, five and one-half minutes, to the gentleman from New York [Mr. O'CONNOR].

Mr. O'CONNOR. Mr. Chairman, obviously in the short time allotted to me, after having spent at least 10 years fighting for repeal and modification of the Volstead Act, it is extremely difficult to even outline my views on this question. As a matter of fact, looking at the bill, I recognize "me own che-ild." True, it has a different name on it as then introduced, but it is very similar to a well-known bill introduced and voted on last spring, and which, in fact, was the only bill pending before the Ways and Means Committee on December 5, and the only bill pending before that committee at any time with a provision for beer of 3.2 per cent alcoholic content by weight. But the "che-ild" has grown some since last spring, and while I am going to put in the RECORD the important part of my remarks, what I want to point out in the short time I have now is that the "che-ild" has lost some teeth since it appeared on the floor here last May, and I am anxious that the House consider the amendments to restore those teeth which I shall propose to the bill.

I am for this legislation—a gratuitous remark—and any amendment I shall offer will be to in no wise injure the bill but rather to perfect it. I shall offer amendments which were more or less contained in what was known as the O'Connor-Hull beer bill and which were not contained in the O'Connor-Hull revised bill which was sent to the Ways and Means Committee on December 5 this year.

My approach to the subject is from four avenues:

First. The restoring of good beer to the public which so overwhelmingly demands it, and thus correcting the "legislative lie" contained in the Volstead Act.

Second. To stop the bootlegger mentioned by the gentleman from Kansas [Mr. GUYER]. The difference in price will do this.

Third. To procure revenue for a much-depleted Treasury and avoid other nuisance and burdensome taxation.

Fourth. To aid the American farmer to dispose of some of his surplus grains and promote the diversification of crops by renewing hop growing in the United States.

Fifth. To provide employment to a few hundred thousand of our millions of unemployed.

I am not concerned primarily with a revival of profits for the brewers or other businesses interested or with the capital investment contemplated in new breweries, and so forth, except as such investments will furnish employment.

These considerations boil down to two motives which prompt us:

First. The personal right of the public to drink beer if it sees fit, pending the repeal of the eighteenth amendment; and

Second. To meet the present economic situation.

First, I shall ask for a legislative declaration that this beverage of 3.2 per cent of alcohol by weight is not intoxicating in fact. This must have been left out of the bill by mistake, because it has been contained in every beer bill that has been offered heretofore.

Then I shall offer amendments to take the administration of this law away from the national prohibition unit. It never was intended that such a bureau should have the enforcement of this law, and this provision must have gotten into the bill by the act of one of these mechanical draftsmen. If it is nonintoxicating, it should not be placed in the national prohibition unit, and in all the other bills introduced here it was provided that the Commissioner of Internal Revenue, under existing law, should enforce the law by licenses and not by permits, because if there is one thing that will ruin any chance of repeal of the eighteenth amendment it is to permit the situation that existed before prohibition—a monopoly in the sale of this beverage. If you will only grant permits in the same manner you issue permits to-day to make whisky, for instance, you are going to have a preference shown, and some people are going to get permits and others are not, and you will build up a monopoly such as existed before. If this beverage is nonintoxicating in fact, I say "license" it to get the revenue, not build up a monopoly by "permits."

I shall offer an amendment for a tax of $7.50 a barrel on this beer. When I discuss that amendment, I hope to convince you that any less amount has been propaganded here by the brewers. They are the only ones interested, and they will charge just as much for the beer whether you put on a tax of $5 or $7.50. I make that prediction now. The only difference will be that if you put on a $5 tax instead of a $7.50 tax the brewers will make an extra $2.50. This is a subject which I shall develop when I offer my amendment.

Furthermore, this bill left out the provision of the O'Connor-Hull bill prohibiting the importation of hops and grains for use in this beverage, and I propose to offer an amendment to help the American farmer by prohibiting the importation of hops and grains for use in this beverage.

To meet the situation that was called attention to to-day by the gentleman from West Virginia, the Republican whip, that this bill would interfere with home-brew, I call attention to the fact that the bill was intended only to refer to this beverage which is manufactured for sale, and the bill needs amendment in that respect, which I shall offer on page 4, line 24.

Mr. SABATH. Will the gentleman yield?

Mr. O'CONNOR. Yes.

Mr. SABATH. The gentleman calls the bill the O'Connor-Hull bill. The gentleman means the bill that was agreed upon by a committee composed of a number of Members of the House?

Mr. O'CONNOR. Yes; it was introduced and indorsed by some 50 or 60 Members of the wet groups of the House, including the gentleman from Illinois [Mr. SABATH].

Mr. CLANCY. Will the gentleman yield?

Mr. O'CONNOR. Yes.

Mr. CLANCY. What has the gentleman to say with respect to section 7 of the bill, which is more terroristic than the Jones law, in that it provides that for the second offense there may be imprisonment for one year for exporting one bottle of this beer into a dry State?

Mr. O'CONNOR. I will gladly tell the gentleman what I would do about that. I would support any penalty, no matter how gross, against a seller who violates the provisions of this law with respect to protecting dry States. [Applause.] I have no sympathy for the hunger of these brewers or other liquor makers who are not satisfied to sell it in their own States or wherever it may be permitted, but strive to circumvent the law by selling it in forbidden territory. The following amendments, and perhaps others, will be offered by me when the bill shall be read to-morrow for amendment.

Page 1, line 7, after the word "weight," insert "which maximum percentage is hereby declared to be nonintoxicating in fact." This legislative declaration has been contained in all our "beer bills" and must have been omitted from this bill by oversight.

Page 2, line 2, strike out "$5" and insert "$7.50."

Page 4, line 24, after "volume," insert "for sale." This does not compel the home-brewer to get a $1,000 license as a "brewer."

Page 4, line 24, strike out the sentence beginning "Before engaging in business," and so forth, down to an including the period in line 6, page 5, and insert:

Each brewer, wholesaler, and retailer before engaging in business shall secure a license from the Commissioner of Internal Revenue, who, with the approval of the Secretary of the Treasury, shall have power to prescribe and enforce rules and regulations carrying this section into effect together with all the provisions of chapter 6 of title 26 of the United States Code, as amended and supplemented, and any other provisions of said title 26 as applicable to malt, brewed, or fermented liquors or beverages, and all provisions of existing laws relative to the licensing, registering, filing of returns, and payment of tax by manufacturer, brewer, wholesalers, and retailers in brewed, malt, or fermented liquors, and their agents and employees, are made applicable hereto and shall be enforced by the Commissioner of Internal Revenue, with the approval of the Secretary of the Treasury, under proper rules and regulations.

This amendment obviates all the scandal and monopolistic features of permits and leaves the licensing as it existed prior to prohibition.

Page 5, line 6, strike out the word "permit" and insert the word "license." This amendment follows the foregoing suggestion.

Page 5, line 7, after the word "manufacture," insert the words "or sale."

Page 5, line 10, after the word "manufacture," insert the words "or sale."

Page 5, line 11, strike out the word "permit" in both instances and insert the word "license."

Page 5, line 12, strike out the rest of the sentence after the word "law." It is ridiculous to provide for nonintoxicating beverages and still enforce the sale of them under the prohibition law.

Page 6, line 16, after section 6, insert a new section 7 and renumber the remaining sections accordingly:

SEC. 7. Nothing herein contained shall be construed to authorize the importation of such beverages, containing more than one-half of 1 per cent of alcohol by volume and not more than 3.2 per cent of alcohol by weight, into the United States from any other country or place and such importation is hereby expressly prohibited.

The prior beer bills contained this provision to aid the American farmer.

Page 6, line 16, after the new section 7 above, insert another new section and renumber the remaining sections accordingly:

SEC. 8. (a) No grain, hops, or other ingredient suitable for use in the manufacture of beer, lager beer, ale, or porter, stout, or other brewed, malt, or fermented beverages may be imported into the United States or any place subject to the jurisdiction thereof, or withdrawn from bonded warehouses for domestic consumption if it is to be used in the manufacture of beer, lager beer, ale, porter, stout, or other brewed, malt, or fermented beverages.

(b) This section shall be enforced as part of the customs laws, and the Secretary of the Treasury is authorized and directed to prescribe such rules and regulations as may be necessary for such enforcement.

This is a further amendment to aid the American farmer.

Page 7, line 21, strike out the word "permits" and insert the words "licenses to manufacture".

As to "wine," I shall be glad to vote for an amendment to include "naturally fermented wines"; but I should like to see the alcoholic content restricted to 8 per cent by weight or 10 per cent by volume.

What I should like to see added to the bill is the most severe penalties against sellers violating the provisions against invading dry States. I have no sympathy with brewers who are not content with reaping their exorbitant

profits in their own or other wet States without trying to invade dry States. Such hoggishness brought on prohibition and may well do so again.

Mr. CHINDBLOM. Mr. Chairman, I yield five minutes to the gentleman from Washington [Mr. HORR].

Mr. HORR. Mr. Chairman, I came here with a direct mandate from the people of my own State. I have heard a considerable amount of argument and talk that the last election was not a mandate to the Representatives here from the different States. I do not know what has occurred in the other States, but let me call your attention to the fact that in the State of Washington we had a bone-dry law. This matter came up for repeal on a direct issue before the people of the State, a State from which came the "five and ten law," and at an election held at the same time as our general election, by a majority of 2 to 1, the people of the State of Washington determined to, and did, repeal every bone-dry liquor law in that State. In my own city of Seattle just last week, through the city council, they revoked all of the liquor laws in anticipation of having presented to them beer, through this legislation that we are now considering.

I may say to you that in my opinion many of you are overlooking the fact that you did receive a mandate from your people. It is true that many of your States did not vote upon it directly, but I call your attention to the fact that California did and she repealed her liquor laws. Oregon voted and she repealed her liquor laws. Washington, as I said, repealed her liquor laws, and I understand there was a little flirtation also down in the State of Texas, which would lead the ordinary mortal to believe that the people down there have had just a little change of heart.

We went through this last campaign, and I can say that there is not a lingering specimen of Republicanism left in the State of Washington, and I am one of those who was also decapitated in the recent revolution.

It is traceable to one thing, and that is that the people believed that our platform was a straddle. We tried to defend the Republican platform, but the people would not believe it. I really thought until to-day that you Democrats were sincere when you came out and said that you were opposed to the liquor traffic and favored repeal and modification.

Do not tell me that the repeal of the eighteenth amendment is not a national issue. I attended the Republican National Convention at Chicago, and the only subject that came before that convention that was debated was whether or not we should adopt a straight out-and-out repeal platform or whether or not we should adopt the straddling, wobbling platform that none of you have been able to determine the meaning of.

You Democrats went before the people and told the people that you stood for the repeal, and repeal means that you are opposed to the prohibition law.

I want to say to all of you, each and every one of us, except from a few States, so few that it is not necessary to name them, that all of us have received a mandate from the people.

Talk about a million eyes looking down upon us and the babies crying for protection! I can quote the next to the first lady of the land, who has called attention to conditions under prohibition in a Topeka, Kans., address. A Congressman who pretends to represent the people ought to be ashamed to be a party to perpetuating such a condition. I am going to read from Mrs. Franklin D. Roosevelt's Topeka address:

> The average girl of to-day faces the problem of learning very young how much she can drink of such things as whisky and gin and sticking to the proper quantity.

Now, I want to say to you a few things about the constitutionality of this law.

Some Members are raising the question of the constitutionality of this measure. You are arguing that beer with an alcoholic content of 3.2 per cent by weight and 4 per cent by volume will be declared intoxicating by the United States Supreme Court. I am of the opinion that you who are opposing this bill are not so much concerned about the measure's being declared unconstitutional as you are afraid that it will be declared constitutional.

Those of you who are and have been dry raise every technicality available as an excuse to vote against, not only this measure but every other measure that has to do with changing the eighteenth amendment and its enforcement legislation. When the repeal resolution was before this House you found it did not conform with all your views, and you used that excuse to vote against that party pledge. Why not be sincere and say openly and publicly that you will vote against any measure calling for modification and repeal of the eighteenth amendment?

Why quibble over the alcoholic content of beer? Last session the same Members who are voting against this beer measure voted a tax on wort, a product from which only beer can be made. Wort made into beer runs a much higher alcoholic content, as high as 6 per cent and 7 per cent beer. You voted also a tax on grape concentrate, from which wine is made. May I ask why you hesitate to legalize beer when it is a known fact that illegal beer can be had for a price? Is it not better to have the profits in part go to the Government rather than to the bootlegger and racketeer?

If the defeat of this bill or any other bill would result in real prohibition, I would be for its defeat. We know that the liquor laws are a joke, that beer has financed the racketeer, and that the liquor laws are responsible for the crime wave that has swept the country.

You who are opposing the repeal and modification of these liquor laws would have us believe that repeal and modification would cause our homes to be invaded by the evils of rum. Surely you must know of conditions as they now exist. Homes have been invaded under prohibition; youth has been debauched. Where goes the wort and grape concentrate and home-brew that you drys have taxed? Into the home, I say. Into the schools and universities home-brew, moonshine, and contraband wines have found their way. Speakeasies, which thrive on the attendance of youth of both sexes, have supplanted the saloons, where youth, and especially young girls, never found admittance. Awake, my colleagues, to these conditions and let us try some other system.

Members to-day have called attention to the fact that our people are in hunger and in want. It is bread, not beer, they want. Will the passage of this beer bill prevent us from giving bread? Do you realize that over $34,000,000,000 have been expended by the Federal, State, and municipal governments since prohibition went into effect in loss of revenue and in a useless attempt to enforce this unenforceable law?

It is bread you want—then may I ask how much bread would $34,000,000,000 buy? Did you "drys" think of bread when during the last session you voted $10,000,000 for liquor enforcement?

With jobs comes bread. Do you realize what the passage of this bill would do toward the creation of jobs in my own State of Washington alone? The total brewing investment in the State of Washington was $14,194,646.33 when the State went dry.

The gross business amounted to $11,965,426.16 yearly. The wages paid out each year to workers was $1,538,108.28. When we consider that for each brewery worker there is a call for three others to be employed in industries which furnish products to the brewery, we find that when the brewery went out of business the workers lost more than four and one-half million dollars in wages in our State alone. Four and a half million dollars would buy considerable bread for our starving people.

The breweries of our State used 1,500,000 bushels of barley and 1,500,000 pounds of hops yearly—these are products of our State and neighboring States. Their reestablishment would mean something to our farmers.

Our State, as I said, was bone-dry. A doctor could not prescribe any intoxicating liquor for sickness. Our people could have sacramental wine, but under our law we could

not use our home-grown fruits. We were compelled to send to California for our sacramental wines. There a greater degree of sanity prevailed.

Our law would not permit us to use our own fruits, but we could possess and use wine made from fruits of other States. This situation was also true of industrial alcohol. We could possess, sell, and transport under Government permit alcohol, but we could not under our law manufacture the product we could use.

Is it then to be wondered at that my State voted out these liquor laws? Is it to be marveled at that they went to the other extreme and elected men to public office who had been in prison and one who was in jail the day he was elected?

The fanaticism of prohibition produced a fanaticism of revolt. The pendulum swung to the other extreme. Sane legislation will restore normalcy, and I am hoping that the passage of this bill will be a start in that direction.

Mr. HAWLEY. Mr. Chairman, I yield six minutes to the gentleman from Kansas [Mr. HOPE].

Mr. HOPE. Mr. Chairman and gentlemen, I am opposed to the repeal of the eighteenth amendment, and yet were I the most enthusiastic advocate of repeal in this House I would hesitate about voting for this bill.

This is a saloon bill, a brewers' bill; its terms were suggested and written by the brewers and their representatives who appeared before the Ways and Means Committee. Read the hearings and you will find that practically every suggestion made by the brewers was adopted.

Its enactment means the return of the saloon to this country. If the saloon returns for any considerable period of time before the eighteenth amendment is considered by the various States of this country, that amendment is never going to be repealed. I do not think it is going to be repealed anyway. But the people of this country are going to see such an example of debauchery and crime because of the saloon if this bill becomes a law that they are going to go mighty slow about what they do in that connection. There are many millions in this country who have forgotten the saloon and all of its iniquities. There are millions more who have never seen a saloon. An entire generation has grown up since prohibition. This measure, if enacted, will open up the saloons and restore to them 90 per cent of all the business they ever enjoyed. A few months of the saloon will prove to those who have forgotten it and those who never knew it that prohibition at its worst is immeasurably better than the saloon.

I have not time in five minutes to discuss many phases of this measure, but it has been stated on the floor, it is stated in the report, and there was testimony before the committee in its hearings, that this measure will be of some benefit to the farmers of this country. That I emphatically deny.

In this city there have been for the past 10 days representatives of all the great farm organizations of the country. They have been meeting here for the purpose of devising remedies to aid agriculture, and have discussed a great many things, but not once in all those meetings has anyone even suggested that the amendment of the Volstead Act, such as is proposed here, would be of any value to agriculture.

I represent one of the great agricultural districts of the country, a great grain district, where we grow wheat, corn, barley, and all of the other principal grain products of the country. In the six years that I have been a Member of this House I have had only one farmer in my district suggest to me that it would help the farmer to repeal or amend the Volstead law.

It is said that the repeal of the Volstead law might result in an increased consumption of grain. It is true that before the passage of the Volstead law we did use some barley, some corn, and some of the other grains, about 60,000,000 bushels in all, in the manufacture of beer. Yet, since the Volstead Act was passed, the production of barley, which is the principal grain ingredient of beer, has increased in this country by more than 50 per cent. That barley has all been consumed. How has it been consumed? It has been consumed on the farms of the country by dairy cattle and hogs, whose products have gone to the markets of the country and have been purchased by the workingmen and their families who formerly spent their money for beer. This is very easily susceptible of proof. The consumption of fluid milk in this country has greatly increased since the enactment of the Volstead Act. I call attention to the fact that in 1917 the average per capita consumption of milk and milk products computed in terms of milk in this country was 754.8 pounds, while in 1929, the last normal year, the consumption was 997.5 pounds, and that consumption, I may say, is practically the same, even during the last two or three years of depression.

Now, this great increase in the per capita consumption of milk means the consumption not only of more grain than was used in the manufacture of all distilled and fermented liquors in 1917 but means the consumption of a great additional quantity of hay and other roughage grown by the farmers of this country. This was very clearly pointed out by Mr. C. J. Taber in his statement before the Senate Manufactures Committee, in which he showed that in order to produce this increased consumption of milk we consume a total of over 10,000,000,000 pounds of grain and 25,000,000,000 pounds of roughage, whereas all grain used in distilled and fermented liquors in 1917 was but 6,200,000,000 pounds. Furthermore, when a farmer converts his barley into milk or pork, he gets some of the manufacturing profits, whereas if it goes into beer the brewer and the saloon get all the profit.

If time permitted, one might go on and enumerate other economic benefits which have come to the farmer as a result of prohibition. I might call attention to the matter of the corn-sugar manufacturing industry, which has developed so greatly in recent years. Corn sugar is used quite largely in the manufacture of confectionery, soft drinks, and like products, the production of which has greatly expanded during the prohibition era. The return of beer would certainly not increase the consumption of these products.

In 1917 we produced a little over 60,000,000 barrels of beer. I do not know much about the price of beer, but in the discussions in Congress it has been suggested that if beer were legalized it would sell for 15 cents per pint. Sixty million barrels at 15 cents per pint would be $2,232,000,000. Can you imagine that the expenditure of over $2,000,000,000 for beer would help the market for farm products? This is a day of intense competition for the consumer's dollar, and past experience has demonstrated that in competing for the dollar no product has a chance with liquor. It gets the first call every time. The farmer knows that the dollar which is spent for beer can not be spent for milk, cheese, pork, or any other product of the farm. Therefore, it is not hard to understand why he is not throwing his hat in the air over the idea of legalizing beer. He knows that a return of beer, while it may afford a market for an insignificant amount of his grain, means losing a much larger market for products which are infinitely more profitable to him.

The farmer's opposition to beer is not alone on economic grounds. He is against it, generally speaking, on moral and social grounds. Irrespective of these reasons, every thinking farmer can justify his opposition to beer solely on the basis of economics. I am not afraid, therefore, that any of the farmer's would-be friends from the metropolitan centers of this country are going to convince him that beer and farm relief have any connection.

Mr. SANDERS of Texas. Mr. Chairman, I yield five minutes to the gentleman from Tennessee [Mr. COOPER].

Mr. COOPER of Tennessee. Mr. Chairman, with all due deference and not in a spirit of criticism I desire to make one observation relative to the procedure employed for the consideration of this bill. It is my thought that it would have been better and more conducive to orderly procedure for this bill to have received the consideration of the Judiciary Committee of the House, especially the legal, constitutional, and moral phases of the matter, because this committee has been giving special consideration to these phases of the subject for some 10 years or more and has held extensive hearings on the subject over this period of time. This committee

already having this great store of information could have readily reported on these phases of the question, and then the Ways and Means Committee could have promptly considered and reported on the revenue phase and either reported a tax on beer as a part of a general revenue bill or in a special measure.

I regret that this measure is under consideration, especially at this time, with the situation that now exists. With the country suffering from the greatest depression known in our history, with industry paralyzed, with agriculture bleeding at every pore, with thousands of our citizens losing their farms and homes through mortgage foreclosures, with more than 12,000,000 of our people unemployed and poverty, distress, and suffering evident practically on every hand, yet in the face of this condition the impression goes out to the country that first thought and consideration in this Congress is being given to liquor and beer. I think it is rather unfortunate that the opportunity is afforded for the inference to be drawn by the people that these great questions, of such paramount importance to the welfare of our citizens, are not receiving consideration ahead of beer. These questions should be challenging the highest degree of ability, courage, and patriotism of the statesmanship of the Nation. Yet we have before us at this time a bill to legalize the manufacture and sale of beer.

I have listened carefully and with intense interest to every witness before the Ways and Means Committee during the consideration of this measure. Taking all of this evidence into consideration, I am very clearly of the opinion that the proposed bill is in violation of the Constitution of the United States, which provides as follows:

> After one year from the ratification of this article the manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all territory subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

As a Member of Congress I took the following oath:

> I do solemnly swear that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I will take this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

Therefore, I am unable under this oath to support this legislation.

It is further submitted that the proposed measure is not only in violation of the Constitution of the United States but of the Democratic platform adopted in 1932, which declares for the "sale of beer and other beverages of such alcoholic content as is permissible under the Constitution." The very clear and definite proof before the Ways and Means Committee during the extended hearings on this bill shows conclusively that beer of the alcoholic content of 3.2 by weight, which is conceded to mean beer of 4 per cent alcohol by volume, is intoxicating in fact and is the same type of beer which was generally produced and sold prior to the Volstead Act.

The sale of such beer, because of its alcoholic content, is not permissible under the Constitution. The evidence before the committee shows that much of the beer in use prior to the Volstead Act did not contain more than 3 per cent of alcohol by volume, and the pending bill provides for 1 per cent more than that amount. For several years the proponents of beer legislation have been insisting that what they term a good, sound, and wholesome beer could be produced with an alcoholic content of 2.75, but now they are insisting that it should be raised to 3.2. The evidence before the committee clearly showed that this type of beer which is 4 per cent alcoholic by volume is intoxicating in fact.

Let us not be deceived by the claim that the passage of this bill will afford a great measure of farm relief or relief to the unemployed. There is no farm relief of any consequence provided in this bill, as the proof shows that only approximately 1 bushel of malt barley and about 20 pounds of other grain are consumed in the manufacture of a barrel of beer. Neither is there any unemployment relief of any consequence afford under this bill, for the evidence shows that only about 70,000 people were employed in the manufacture of beer at the peak of production, which was in 1914, when 66,000,000 barrels was produced, and it is not now claimed by the brewers that they will produce more than 40,000,000 barrels for the next two years.

Let us also not be deceived by the claim that the passage of this bill and the collection of the tax therein provided will balance the Budget or will produce anything like the amount of revenue that the proponents of the bill claim. The Secretary of the Treasury, appearing before the committee, estimated that the revenue produced by this measure on the basis of a tax of $5 per barrel would amount to between one hundred and twenty-five and one hundred and fifty million dollars. And even this estimate was predicated upon the assumption that action would be taken by certain of the States favorable to the manufacture or sale of beer. He states that there are 16 States in which the immediate sale of beer is reasonably certain, and that there are 9 additional States in which the early sale of beer may reasonably be expected. This clearly shows that even under the most favorable conditions of recovery of the brewing industry the territory for its operation will necessarily be limited, and this is especially true for the immediate future, and it is now that the additional revenue is needed.

This bill is just exactly what was requested by the brewers and their representatives who appeared before the committee. In fact, in view of their statements, a bill could not have been proposed by them that more completely meets their wishes and desires than the pending measure. The passage of this bill will return to all of its former vigor and strength 90 per cent of the liquor traffic of this country with all of its evil influences which prevailed in former years. [Applause.]

Mr. COLLIER. Mr. Chairman, I yield three minutes to the gentleman from Ohio [Mr. SWEENEY].

Mr. SWEENEY. Mr. Chairman, many of us understand that it is because of the need for revenue to carry on the functions of Government that this beer measure has received the impetus it enjoys to-day. The advocates of this bill do not maintain that the estimated revenue from the manufacture and sale of beer will balance the National Budget, but it is maintained that an estimated revenue in taxation of two hundred or three hundred million dollars a year is no small item to be overlooked, especially at a time when the effects of economy in Government result in the reduction of wages of Federal employees and curtailment of benefits to the veterans of our national wars.

Aside from the question of revenue, the immediate passage of this bill means the beginning of the end of prohibition. It means the elimination of the forces of bigotry and hypocrisy, which have aligned themselves with groups of self-ordained fanatics who believe it is the privilege of Government to regulate the personal habits and liberties of our people. I heard a group of women the other day, appearing before the Ways and Means Committee in opposition to this measure, proclaim fear of the results to the youth of the land who might indulge in 3.2 beer. These good women told the committee hundreds of thousands of mothers were praying for the defeat of this bill. It was the same old argument presented 12 years ago by the proponents of prohibition under the leadership of the late Wayne B. Wheeler. What I am about to relate to you, in my opinion, is but a cross section of conditions generally prevalent throughout the United States as a result of prohibition. In the city of Cleveland, Ohio, during the year 1929, to a court, where I was a judge, came 32,000 persons to answer to the charge of being in the state of intoxication. The average age of these individuals was 25 years. They were the boys and the girls who were in grade school when Congress passed the Volstead Act, and of whom our dry friends said, "They would never know the taste of alcoholic beverages." They were mostly victims of corn liquor, mixtures of Jamaica ginger and aspirin tablets, raw alcohol, and a score of other concoctions. In some cases they were the victims of canned heat, a product purchased

by them in hardware stores, which contains denatured alcohol.

In thousands of cases the individuals told me that if they could only obtain wholesome beers and wines they would never resort to drinking the poisons to which I have referred.

Many of us believe Congress made a mistake in defining intoxicating beverages to be those which contain in excess of one-half of 1 per cent of alcohol as set forth in the Volstead Act. This was an arbitrary and unfair conclusion on the part of Congress and has resulted in many severe and unnatural punishments being afflicted upon our people. Many people have gone to jail, who heretofore were respected citizens of their communities, simply because they happened to have in their possession, or offered for sale, a beverage containing more than one-half of 1 per cent of alcohol in violation of the law.

Trimming their sails to the winds of intolerance and fanaticism cowardly legislatures passed laws containing severe penalties for the violation of their enforcement acts. One State went as far as to enact a statute under which a mother of several small children was sentenced to life imprisonment because of a liquor-law violation. This was known as a "life-for-a-pint" law. Thank God the State referred to, Michigan, has since repealed all her prohibition legislation.

We have never experienced a period in our entire history similar to the prohibition era of the last 10 years. It is comparable only to the witch-burning days of another age. We have lost billions of dollars in revenue. We have spent in the National Government alone close to $400,000,000 in a futile attempt to enforce the law. We have seen prohibition agents murder innocent victims of the prohibition act, then rush into the Federal courts of our land exclaiming, "Sanctuary, sanctuary," and receive benediction and acquittal from our Federal judiciary. We have seen the cause of temperance set back 50 years. Prohibition has no place in our national life. It must be regulated by the several States. Temperance is a problem that belongs primarily to the church, the school, and the home.

When the historians of the future write the history of this prohibition era, I am sure they will seriously ponder in seeking a reason as to why the American public remained so patient and so tolerant when their rights and liberties were being crushed by sumptuary legislation.

I believe that legislation should be enacted providing for the manufacture and sale of wines, and the manufacture and sale of spirits to be controlled following the plan in vogue in Sweden or in the Province of Quebec, Canada.

The statement was made to-day by the majority floor leader that Doctor Doran, of the Prohibition Unit, estimated an annual sale at the present time in the United States of 20,000,000 barrels of beer, from which the Government derives no revenue. With the hotels in the hands of receiverships, with legitimate restaurants losing their trade as the result of speakeasies, is it not about time that we refuse to strengthen the forces of the racketeers, gangsters, and kidnapers, all of whom are the by-product of prohibition? The opposition to this measure comes chiefly from the racketeers and the underworld, who challenge the very existence of law and order. They are supported in chief by commercialized preachers who have been terrorizing Congressmen for many years.

Let us send word to the Nation that we are courageous enough to acquiesce in the mandate of November 8, to stamp out prohibition and to instruct the commercialized preachers to return to their pulpits, where they have been preaching Volstead deified, and turn for a while to the subject of Christ crucified.

Mr. Chairman, if the parliamentary situation allowed it, I would offer an amendment to this measure, apologizing to the American public for 12 years of prohibition. [Applause.]

Mr. CHINDBLOM. Mr. Chairman, I yield five minutes to the gentleman from Wisconsin [Mr. BOILEAU].

Mr. BOILEAU. Mr. Chairman, something was said this afternoon about the effect of liquor, so far as criminal-law violations are concerned. I prosecuted a large number of cases, and, in my experience, I can recall of no instance in which a person who was intoxicated from drinking beer got into any serious trouble. I know of any number of cases where men, women, and children found themselves in serious difficulty with the law because they were drinking hard liquor, moonshine and other strong drink, but people who drink beer, particularly beer of a moderate degree of alcoholic content, do not get vicious. They do not get intoxicated to the extent that they violate the criminal laws.

A year ago last summer I spent about five days in Winnipeg, in the Province of Manitoba, Canada, where they have what I consider to be a very sane system of handling the liquor traffic. It is possible to obtain wine and hard liquor at the Government stores, but at the beer parlors, the public places, where beer is sold for consumption upon the premises, nothing else can be purchased except malt liquors.

I visited a number of those places during the five days I was there, and no matter what time of the day or evening I attended those places there was always a number of people present. There was no bar. There were tables where people could sit down and have a glass of beer or ale, and I did not see a single person during the five days I was in Winnipeg under the influence of liquor in any of the beer parlors.

The people go to the public beer parlors without going around to the back door. They drink beer moderately. They do not get intoxicated. I believe it is a splendid system, and I would like to see it tried out in this country.

If we adopt this bill to-day we are putting into effect a system that would permit those beer parlors, and nothing more than that in this country until we repeal the eighteenth amendment. We have heard talk to-day about the return of the old saloon. The old saloon sold not only beer but also wine and hard liquor. If we pass this bill to-day it will be impossible to sell hard liquor in these beer parlors. Only beer will be permitted to be sold; and I can not see, by any stretch of the imagination, where we are reverting back to the old saloon days. I did not have much experience with the old saloon days, but I have had some experience with conditions prevailing in my district during the past 10 years, since I have been engaged in the practice of law and acting as district attorney of my county.

I know that conditions are bad, and I know that the people of my district would be satisfied if they could have a good glass of beer. I know they are able to handle it. I, for one, will not vote against this bill just because it does not say how the beer should be sold. I do not believe the people of Kansas or the people of Georgia have any moral right to tell the people of Wisconsin how they shall handle beer which, in the opinion of the people of my State, is not harmful. I do not wish to impose the views of the people of my State upon the people of Georgia or Kansas. They can outlaw beer if they want to. We are not trying to force it upon them. We are not telling them they must have beer, and I, for one, do not believe they have the moral right to say to us that we in Wisconsin can not have beer, when we know from experience that our people are able to handle it. We feel that the people of Wisconsin should be given the right to handle beer the way they believe to be for the best interests of the people of Wisconsin. We accord the same right to other States. I believe that is fair, and I submit to the people of the dry States, if there are any dry States left, that we do not want to force beer upon them, but we are asking them to give us an opportunity to handle this liquor traffic in a way which we believe will be successful and satisfactory to our people. We are of the opinion that good beer, properly regulated, is a temperance measure. [Applause.]

[Here the gavel fell.]

Mr. HAWLEY. Mr. Chairman, I yield myself 10 minutes.

Mr. Chairman, one of the most inspiring scenes that ever I witnessed occurred at the beginning of this Congress when all the Members on the floor of the House rose and took the oath of office, that we necessarily take before entering upon our legislative duties. The oath, as prescribed in the laws

of the country. The Constitution requires us to swear in these words:

I do solemnly swear that I will support and defend the Constitution of the United States, * * * bear true faith and allegiance to the same, * * * without any mental reservation, or purpose of evasion.

My memory goes back over a period of years prior to prohibition. I know of my own knowledge—not by experience, but by observation and conversation with others—that beer in those days was intoxicating. I have seen kegs of beer taken to country picnics and young men become intoxicated. I have seen the breweries in my own town before prohibition, have their places to drink, and young men come out of them intoxicated. They called them mild beers. I have every reason to believe that the liquor provided in this proposed legislation is intoxicating in fact, and I could not vote for it without mental reservation or purpose of evasion.

Moreover, I desire to discuss some items that have not been touched upon in the debate, or, if at all, only incidentally. This bill brings back, on the basis of 1914, 90 per cent of the liquor traffic of the country. Two billion gallons of beer out of 2,200,000,000 gallons of liquor consumed. Ninety per cent in volume of the traffic. The brewing interests, who were the chief proponents of the legislation before the committee, were asked how they proposed to dispense this product. On the allegation that it was nonintoxicating they said it ought to be sold at soda fountains, at cafés, in drug stores, not only in hotels and restaurants, but in the wayside eating houses, and at the filling stations—the widest possible distribution. Naturally they desired that, because upon the volume they sell depends the amount of their profit.

A man may not observedly be drunk so that you could detect it in his walk or talk, but alcohol has an affinity for the brain. It leaves the stomach and goes to the brain. It slows up the activity of that organ. It interferes with the motor reflexes. A pianist who plays intricate pieces of music plays them by the motor reflexes. Alcohol slows up those motor reflexes. What will be the situation, then?

We have expended hundreds of millions and even billions of dollars on the improvement of our highways, main systems of highways, hard surfaced, with roads feeding into them from all directions. It was testified before the committee, and it is an axiom in all the studies that have ever been made of the brain, that the effect of alcohol is to slow up its activity. So, in a crisis a person driving a car under the influence of alcohol would fail to stop the car, or to start it going faster, in order to escape a collision; he would take chances that normally he would not take. The passage of this legislation will enable the drivers of cars at wayside eating stations and in the filling stations to absorb enough liquor through the beer that is to be sold widespread all over this land to become public menaces not only to the property but to the lives of those who travel on the road. Many of the cars are driven by young people, many are driven by women, and a few persons intoxicated on the road, speeding along from 35 to 60 miles an hour, would endanger the lives of people beyond any estimate anyone now could submit. I think, having made that investment in roads, having expended that amount of money, and having offered the people this means of transportation, to involve all this now in grave difficulty, to impair the use of the highways, the comfort and enjoyment the people get out of travel on the highways, in order to afford a few people an opportunity to make great profit out of the sale of what I believe clearly is an illegal beverage, is both unsound in legislation and a backward step in our development.

I want to emphasize this one point again, for I think it is worthy of your great consideration: At present young people of all ages go to the soda fountains. They get ice cream and various kinds of soft drinks. Here will be placed before them this 3.2 per cent beer by weight or 4 per cent beer by volume. Naturally, there will be an incentive to sell beer, and young people having less resistance to alcohol than those who are older will be induced to drink and become intoxicated. Everywhere they go, in every drug store, soda fountain, wayside station, or when they go to get gasoline, at places where they sell drinks—and there are a great many of them along the roadside—they will be urged to drink this, will become more or less intoxicated, and form a habit that will in itself demand stronger liquors later on for their satisfaction. There is no intention in this legislation to defeat this widespread distribution. It was proposed to prevent the return of the saloon, definitely proposed and definitely voted down. It was proposed to limit the drinking of these beverages to places where meals were sold—restaurants, cafés, and other such places—but this was voted down. It is the clear intent, so far as this legislation is concerned, to put the Government in the attitude, if we pass it, of promoting as the purpose of the Government, to make the sale of this beverage as widespread as it is possible so that under the impulse of the beer interests, in return for a tremendous volume of trade to them and the profits resulting therefrom, the Government will get a very small per cent in revenue. [Applause.]

In the short time I have at my disposal I summarize my views, although it involves some repetition. But the matters are important.

At the beginning of this session of Congress, in company with all my colleagues, I stood on the floor of the House and took the oath to support the Constitution of the United States, as required by Article VI of the Constitution. I quote from that oath:

I do solemnly swear that I will support and defend the Constitution of the United States * * * bear true faith and allegiance to the same * * * without any mental reservation or purpose of evasion.

Article 18 of the amendments provides that—

The manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all Territories subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

I listened with careful attention to the evidence submitted to the committee during the hearings preceding the report of the pending bill, H. R. 13742. My observation covers a period prior to prohibition as well as under prohibition. I am convinced by the evidence submitted at the hearing and by observation and evidence extending over a period of a lifetime that beer and other liquors described in the bill are intoxicating. They were intoxicating prior to prohibition. A legislative declaration to the contrary does not overcome that fact, and if I were to support this legislation it would require a "mental reservation" on my part and a "purpose of evasion" of the eighteenth article of amendment to the Constitution.

On the part of the Federal Government, this bill proposes that the country enter upon a new era in the manufacture, distribution, sale, and consumption of intoxicants. It provides for the reestablishment of 90 per cent in volume of the liquor traffic, on the basis of the amount prior to prohibition.

The brewing interests, realizing the influence that the great fundamental law of the land and the strength of the purpose of the people for its observance, attempted to avert opposition to this bill by constant reiteration of the allegation that malt beverages of the strength proposed were not intoxicating in fact as the basis and justification of their sale.

The bill originally proposed that the alcoholic content should be 2.75 per cent by weight, or 3.4375 per cent by volume. The majority of the committee increased the alcoholic content to 3.2 per cent by weight, or 4 per cent by volume, on the ground that this would increase the attractiveness of the beverage and increase its sale.

The question of the influence of alcohol on the human system has an added importance, owing to the development by National, State, and local funds of great highways and other improved roads, over which are operated some 26,000,000 motor vehicles. An individual may not be visibly intoxicated to the extent that he may be identified as a "drunk," but his muscular reactions and mental activities may be so depressed that he is not able to respond as quickly as when normal. Detailed evidence of this fact was submitted to

the committee. The lives and property of people who use the highways are subjected to constant risk, and the traffic problem is one of the most important in the United States, and anything that will increase its dangers is against the public interest.

During the hearings the brewing interests indicated their desire to secure a widespread distribution and opportunity of sale for beer and other beverages provided in the bill. On the allegation that they were not intoxicating, it was suggested that beer be sold at soda fountains, drug stores, cafeterias, hotels, restaurants, clubs, and also at highway eating places, filling stations, and other places along the highways, or, to put it in other words, it should be sold as freely as soda water, ginger ale, and other soft drinks. The wayside sales would become a direct and continuing menace to vehicular traffic. The sale in drug stores, soda fountains, and other places where soft drinks are dispensed to the multitude would bring beer within the reach of everyone, including the very young, and be a constant temptation to them to drink this toxic and habit-forming beverage. That which might not intoxicate people of mature years will certainly intoxicate the young. The motion to restrict the sale to clubs, restaurants, hotels, and so forth, was voted down in the committee.

If it should be argued that the matter of distribution can be controlled by the States, let me call your attention to the fact that this bill expresses the attitude of the Federal Government toward the matter and that the refusal of many of the States to participate in enforcement indicates that from them at least no help can be expected.

During the hearings the brewing interests stated that they had no desire for the return of the saloon, and referred to the planks in the party platforms; but a motion to prevent the return of the saloon by refusing to permit beer to be sold in such places was voted down in the committee.

According to an estimate called to the attention of the committee, the consumption of alcoholic liquors in the United States is approximately but one-third of what it was prior to prohibition.

The public health under prohibition has materially improved and, according to the information furnished, reached a remarkable degree in the last fiscal year.

Some urged upon the committee that bootlegging, racketeering, speakeasies, blind tigers, illicit distilling and brewing were the result of prohibition. This can not be true, because such operations were carried on for a long period of years before prohibition. Terms have been altered to some extent, but the operations are similar.

The estimates of reemployment submitted to the committee by proponents of the bill varied, but altogether were a comparatively small number, without taking into consideration the loss of labor to persons now working in other industries whose sales would diminish because the money theretofore expended in purchases of their products would go to the purchase of malt liquors.

The income of the people generally of the United States will not be increased by the sale of malt liquors. Purchases of such beverages must be paid for from the family income. Other purchases must be reduced in amount, since incomes can not be expended twice.

It is alleged that the revenue to be derived from this measure will tend to balance the Budget. The brewing interests indicated that at the end of two years they will be manufacturing 40,000,000 barrels of beer of 31 gallons each, if the taste for this beverage is recreated, which, at $5 a barrel, will bring $200,000,000 of revenue to the Government, to which they added an estimate of income from the so-called allied industries; but they failed to deduct therefrom the losses that will be incident to other businesses from which revenue is now being derived. This would materially reduce the supposed income.

I do not believe the Government should obtain revenues through the violation of the Constitution and by the legalization of beverages which produce intoxication. Beer was intoxicating before prohibition. Its constituent elements remain the same and will undoubtedly produce intoxication again. I believe the Budget should be balanced but that legitimate sources of revenue, legal under the Constitution, should furnish the necessary amount.

From the above, as well as from many other factors I shall not take occasion to name, it appears that we are facing a wide-open situation in the matter of the dispensation of malt liquors. Some things were said during the hearings by the brewing interests concerning the protection of the dry States from the entrance of intoxicants within their borders from wet States. With our motor system of transportation, with tens of thousands of automobiles moving continually back and forth, with trucks on the highways carrying freight brought from many sources and distributed to many destinations, with increased traffic in the air, I came to the conclusion that a dry State surrounded by wet States or adjacent to one or more wet States would find itself subject to an impossible task in maintaining its dry status.

My feeling, after listening to many discussions and the recent hearings, is that the liquor interests are planning, by this measure, to secure again the existence of 90 per cent by volume of the liquor traffic, the repeal of the eighteenth amendment, and the return again of the sale of all intoxicating liquors with attendant and acknowledged evils. It seems to me that if we adopt the policy contained in this bill, the return of the saloon is inevitable.

Mr. SANDERS of Texas. Mr. Chairman, I yield 10 minutes to the gentleman from Georgia [Mr. Cox].

Mr. COX. Mr. Chairman, we of course recognize the fact that there comes up to us from every section of the country a very strong demand for the modification, or some character of revision, of our national liquor laws. I regret, however, Mr. Chairman, that the great Ways and Means Committee of the House in the exercise of its judgment, has seen fit to come here with a proposal the effect of which will be in part at least to circumvent and defeat the eighteenth amendment to the Constitution.

The resolution would have been entitled to a very much better standing had the committee reporting it not filed any majority committee report. That report, Mr. Chairman, is at best an apology and a poor one at that—and I disclaim any intention of indulging in any harsh criticism of that great committee. However, in that same report, Mr. Chairman, confession is made by the sponsors and advocates of the measure, so far as the Ways and Means Committee is concerned, that the beverage the sale of which they propose to license is an intoxicating drink.

I submit, Mr. Chairman, that while the public has apparently expressed itself in no uncertain terms with respect to the need for some revision of the liquor laws, there has been given to us by neither of the great parties, nor has there come up to us from the people, any mandate to violate the sanctity of the Constitution. I submit, Mr. Chairman, that while recognition of public sentiment may in all propriety be taken by this body, yet, after all, it is this House that is responsible for its own conduct, and in the determination of the sole question involved in these proceedings, which is the intoxicating nature of the beverages dealt with, each Member must answer for himself in the light of what he knows to be the truth. I submit that at this time there rests upon the individual membership of this House the duty to draw not only upon their technical knowledge of the question involved but upon their experience as men of affairs and men of common sense.

When we take counsel of ourselves upon this important question the conclusion that this is a proposal to legalize the sale of an intoxicating beverage would seem to be inescapable. So far as I am concerned, Mr. Chairman, I am content that each man make the decision for himself, and as he will—that is his privilege and his right—and I, of course, question no one's sincerity, but let me make this observation here and now.

This resolution as drafted will not stand the test in the courts of this country. There is no legislative declaration in the resolution—mark you, this is important in the consideration of the problem—there is no legislative declaration in

the resolution that the beverage dealt with is in fact non-intoxicating, and in the absence of such a declaration, Mr. Chairman, the courts will apply a rule of law that every court of respectability in this country has consistently applied for generation after generation, and that is that the courts will take judicial cognizance of the fact that the beer and the ale and the other beverages dealt with in the resolution are intoxicating in fact.

Mr. O'CONNOR. Will the gentleman yield?

Mr. COX. I yield.

Mr. O'CONNOR. As I told the committee a few minutes ago, I intend to offer such an amendment. It has been in all the other bills and I have discussed the matter with the gentleman. I think it was purely an oversight. It was dropped out of this beer bill for the first time.

Mr. COX. Mr. Chairman, that is a generous view to take with respect to the elimination of that phraseology from the O'Connor bill which the committee had before it, but let me say, Mr. Chairman, I am willing to give the committee credit for declining and for refusing to write into the measure which they bring here a declaration of fact which in their conscience and in their judgment they could not justify or sustain.

Mr. MOUSER. Will the gentleman yield?

Mr. COX. With pleasure, sir.

Mr. MOUSER. Assuming that the committee had put in such a declaration of legislative intent, it still would be a question of fact in the mind of the court as to whether it is intoxicating or not.

Mr. COX. That is possibly true, but under the decisions of the Supreme Court deciding the attacks made upon the law during the last 12 years, there is the probability that the courts would hold that in the making of such declaration—that is, defining what is an intoxicating beverage—Congress was within the exercise of its constitutional power. Yet, Mr. Chairman, I repeat, that in the absence of such a declaration there is, in my opinion, little hope of the measure, even if passed here, being sustained in the courts.

What are we doing here, my colleagues? Since the opening of this session of Congress we have found ourselves here, not joining in the condemnation of that which we have been taught since our infancy is an evil but we are here indulging in the sorry pastime of glorifying liquor.

So far as I am concerned, Mr. Chairman, the liquor problem is, in the main and of necessity, a local question. I supported the resolution of repeal and I would do so again, because I recognize that there is so much controversy running on throughout the country that there ought to be some further expression on the part of the people, and I go even farther than that in saying, Mr. Chairman, that it is possible that the Federal Government should never have dealt with this problem as has been done. Possibly the people should never have written the eighteenth amendment into the Constitution—I do not know—but so far as I am concerned, it would be satisfactory with me that the whole problem be returned to the people; but let the people first speak. It is not within the power of Congress to evade the provisions of the Constitution. Congress can not amend or change, but is bound to obey. The beverage here sought to be legalized is, in my opinion, intoxicating in fact, for which reason I can not and will not support it. It would be more logical and more sensible to wait until after the people express themselves on the subject of repeal.

[Here the gavel fell.]

Mr. CHINDBLOM. Mr. Chairman, I yield five minutes to the gentleman from Ohio [Mr. WHITE].

Mr. WHITE. Mr. Chairman, I do not rise to argue the benefits of any alcoholic beverage. My purpose in rising is to state definitely and positively that I am opposed to the prohibition principle on this question. Prohibition has failed both as cure and palliative. I will vote for this bill, and if you bring in another next week that will shave off another few per cent of the prohibition principle I will vote for it. [Applause.]

I voted for the constitutional amendment as it was submitted to the House. I was critical only of the plan offered for ratification. That plan I viewed as experimental and confusing. The constitutional amendment should be repealed. Instead of us quibbling over the depth of the amber in the fluid we should turn the whole thing back to the States. The States have capacity. There are men of ability in their governments. We should not feel all the security of the land is here.

This bill, if passed and put into effect, will return to the States at least a part of the question, and I am going to vote for it largely for that reason, but mostly for the reason that it will help remedy dangerous social conditions in this country.

There is no question here of the return of the saloon. We have more saloons to-day than we had the day prohibition went into effect. [Applause.]

There is no question about its bringing back alcoholic beverages. We never banished them. The question here is whether the people shall have moderate beverages or immoderate beverages. The drinking part of the Nation has been soaked in strong drinks for 12 years, even the home-brew drinker goes far beyond this bill's content.

Now, gentlemen, this is not a question whether or not we are going to have beer, it is a question whether or not we want conditions now prevailing in this country to go on as they are. This bill will give us a degree of relief. Let us have that relief. We have governors of States turning loose from the penitentiary men convicted under the prohibition laws. We have mayors of cities letting down the prohibition bars. They are not vicious men. They read the minds of their people.

These men believe their people want this law taken off the books and are taking the course they see open to obedience. You know persons who for five or six days a week declaim against violators and against public officials who fail to stop violations, and the next day bring into their homes their neighbors and entertain in violation of the law that they condemned others for breaking.

What can children think under those conditions? They can only come to one conclusion, and that is that there is no good faith even in their own parents; and when they lose confidence in good faith, in honesty and honor, they are ruined for citizenship.

If we pass this bill it will give some relief from these conditions. It is not a perfect bill. I would amend it in some particulars. As to its constitutionality there is a tribunal set up for the purpose of deciding constitutional questions of this kind. That is a function of the Supreme Court. Let us leave this question to it. I thank you. [Applause.]

Mr. CHINDBLOM. Mr. Chairman, I yield five minutes to the gentleman from Pennsylvania [Mr. STOKES].

Mr. STOKES. Mr. Chairman, for three reasons I favor the resolution now before the House:

First. It will accord with the will of the people as expressed in the recent election in no uncertain terms.

Second. It will bring into the Federal Treasury a large income at a time when it is very much needed, and in the same proportion help to reduce the burden of taxes now weighing so heavily on the shoulders of the people, and in this way encourage revival and general prosperity. As taxation increases, industry is diminished.

Third. It will undoubtedly lead us toward temperance by reducing the consumption of hard liquor, a portion of which is poisonous. It will decrease the dangerous use of narcotics, which has increased so much in recent years. In Sweden recently the introduction of a beer to sell for 5 cents a bottle reduced drinking of hard liquor by 50 per cent. (CONGRESSIONAL RECORD, December 11, 1931, Mr. WILLIAM E. HULL.)

I have not the least doubt that the passage of a beer bill will be a powerful moral factor in favor of a restoration of confidence, and will directly or indirectly result in the reemployment of at least a million people. Therefore this bill is especially in the interest of labor.

Public expectation is keyed up to a high pitch. Let us not discourage it. [Applause.]

Mr. SANDERS of Texas. Mr. Chairman, I yield five minutes to the gentleman from Texas [Mr. SUMNERS].

Mr. SUMNERS of Texas. Mr. Chairman and gentlemen of the committee, it seems to me there are three angles from which this matter may be viewed. One is from the angle of what is known as the drys', the angle of the wets, and from the angle of the legislator who believes in orderly procedure in the discharge of the Government's legislative business. Some very interesting things are occurring these times. Down in the country where I was raised we used to have the custom of what they call swapping work. Neighbors would help each other out. It seems to me that the antis and the pros have been engaged in swapping work with each other. My friend Mr. BLANTON mentioned this morning the fact that the prohibitionists went to sleep for 12 years after the eighteenth amendment was adopted. That was the best work that they could have done for the antis. And now, when sentiment gets to the point where the eighteenth amendment is in danger, at least to the point that the submission of a resolution to repeal it is certain—I suppose everybody with any common sense knows it will be submitted either by this Congress or the next Congress—here come along our wet friends endeavoring to bore a hole in the thing and let out a lot of the pressure threatening to blow the eighteenth amendment out of the Constitution. It is one of the queerest things I have ever seen. Under the law of averages I am due to be wrong, of course, because nobody seems to agree with me. I mean publicly.

Those who want to retain the eighteenth amendment, believing that this bill would legalize the sale of intoxicating liquor, could not support it, of course, but in the old days when they were outsmarting the antis on every battlefield, they would have recognized the strategy of the situation at least. Adopt this bill—mark my words—enact this law, put this thing into operation in the United States, and any chances you may have to repeal the eighteenth amendment go out of the window.

Mr. STAFFORD. Mr. Chairman, will the gentleman yield?

Mr. SUMNERS of Texas. Yes.

Mr. STAFFORD. Does the gentleman predicate that statement on the belief that the passage of this bill will be so popular and be accepted so generally, that it will minimize the desire for a repeal of the eighteenth amendment?

Mr. SUMNERS of Texas. It will reduce the pressure, reduce the demand for the repeal of the eighteenth amendment. In addition, this law having been enacted by the people who are opposed to the eighteenth amendment—at least, that is the way it will go to the country—the proponents of the repeal of the eighteenth amendment will bear all of the sins of this law. That is my judgment as to the psychology of the thing. But I am speaking to you at the moment not as wets or drys but as legislators of a great Government.

I do not want to rehash the things that have been said to-day, about whether this proposed content is intoxicating or not. "Some say she do and some say she don't"—I do not know. [Laughter.] But I do know that there is not a man here who is in favor of this bill who would feel safe as to its constitutionality unless there is incorporated a declaration that it is not intoxicating.

Mr. COCHRAN of Missouri. The gentleman speaks of three angles. Can he tell the House in which direction his arrow is pointed?

Mr. SUMNERS of Texas. Yes; here is mine. I speak to you as legislators recognizing that in government as in everything else there are certain rules governing orderly and proper procedure. It is perfectly certain that the resolution to repeal the eighteenth amendment will soon be submitted. I do not suppose anybody, even the rankest prohibitionist, will doubt that.

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. SANDERS of Texas. Mr. Chairman, I yield the remainder of my time to the gentleman from Texas.

The CHAIRMAN. The gentleman from Texas is recognized for six minutes.

Mr. SUMNERS of Texas. This matter has been agitated for a long time. When the question of the repeal of the eighteenth amendment is submitted to the people, it ought to be a clear-cut submission; we ought to take the judgment of the American people unconfused by such legislation as this. Then, if the American people say that they want the eighteenth amendment repealed, Congress could proceed under the powers indicated in the decisions of the Supreme Court upholding the Webb-Kenyon Act and the Wilson Acts, and the States could proceed. This proposed legislation is ahead of the program. It is out of order. It is out of harmony with rational orderly procedure.

Mr. STAFFORD. Does the gentleman give any recognition to the solemnity of the party platform adopted in Chicago, that the Democratic Party favored the immediate modification of the Volstead Act? I wish to say that the people of my State accepted that statement 100 per cent.

Mr. SUMNERS of Texas. I shall be candid with the gentleman about that. I yield to platform committees and to conventions the right and the duty to formulate general principles and policies, but it is not in the nature of government for those who assemble in party conventions to formulate the detail of governmental procedure. That is my view exactly. The question of whether this proposed alcoholic content is intoxicating or not has been fully discussed. Every phase has been discussed except the one to which I have sought to direct the judgment of the Members of the House.

I submit this question to you, regardless of your views. I submit it to you as legislators having a common interest and a common duty. Is it not in line with sound governmental procedure first to submit the question of repeal to the American people and take their judgment? When that judgment shall have been rendered, then we can proceed to enact any legislation which the judgment of the Congress believes should be enacted. Is that unreasonable or out of line with sane, statesmanlike procedure? There is everywhere at least a serious question as to this alcoholic content being intoxicating. There can be no stronger evidence of that belief than the fact that my distinguished friend from New York [Mr. O'CONNOR] indicates his apprehension of the submission of that question to a jury or to a court. He proposes to safeguard by putting into this bill language which would prevent inquiry into that question by a court or a jury which might otherwise have the opportunity to make inquiry. As I said before, the prohibitionists, by inaction, by going to sleep, were doing your work for you; and now you are helping them out, you are putting a mustard plaster on them and getting circulation started up. But there is a right way and a wrong way to proceed. I voted to have this Congress submit the repeal resolution. I would vote now for resubmission. We can not maintain this system of government if we do not have respect for the basic principles upon which it rests. If a majority of the people of three-fourths of the States favor repeal of the eighteenth amendment, the people have the right and the power to take it out, and they will take it out.

Let us take their judgment on that matter first. It is best for the country that that judgment be taken as far from a presidential election as possible, and as free as possible from every question and condition which could confuse the issue.

Mr. SCHAFER. Will the gentleman yield?

Mr. SUMNERS of Texas. I yield.

Mr. SCHAFER. What percentage of alcohol does the gentleman interpret the Democratic platform as promising if it is not 3.2 per cent by weight or 4 per cent by volume? The Democratic Party got millions of votes on that plank. What percentage did the Democratic fathers believe we should have under that plank?

The CHAIRMAN. The time of the gentleman from Texas has expired.

Mr. CHINDBLOM. I yield four and one-half minutes to the gentleman from New Jersey [Mr. SEGER].

Mr. SEGER. Mr. Chairman, on December 16, 1925, I introduced House Joint Resolution No. 80, calling for the appointment by the President of a commission to investigate and determine what in fact constitutes an intoxicating beverage, the manufacture, sale, and transportation of which are prohibited by the eighteenth amendment to the Constitution of the United States. The resolution was referred by the Speaker to the Rules Committee, which gave it scant attention.

In 1925 it was not an altogether popular thing to cast reflections on the eighteenth amendment and the Volstead Act. However, I felt at that time, as I do now, that the Volstead Act was arbitrary and not factual, and this was also the outspoken contention of one whose views I always respected, the late Thomas F. McCran, attorney general of the State of New Jersey.

Less than a year ago former Gov. Alfred E. Smith, who led the hosts of Democracy in the 1928 campaign, declared it was time Congress determined from expert and scientific knowledge what in fact was intoxicating. And before the current session of the Congress the Democratic floor leader, Congressman RAINEY, as quoted by an interviewer, thought it not unlikely that Congress might provide for a joint commission to study the question of what alcoholic content made an intoxicating beverage. He said this had never been determined, and it might be deemed best to determine it.

Had the resolution I proposed in 1925 been adopted by the Congress, the House Ways and Means Committee would have obviated the difficulty experienced in arriving at a solution of this question. Possibly there would have been no minority dissent on its report, no threatened veto. However, I think it has arrived at a reasonable definition which will be sustained by the Supreme Court.

I regret we were unable to obtain a two-thirds vote so as to adopt the repeal resolution, but I feel we can make some measure of progress in adopting the bill before us to-day, which requires only a majority vote. The committee report states that in 1914, 66,000,000 barrels of beer were produced in the country. It proceeds to estimate that a tax of $5 per barrel would, under expected consumption, produce a revenue of $150,000,000 in the fiscal year of 1934. I am inclined to believe that last year there were brewed and sold in the country more than 50,000,000 barrels of beer, good and bad—probably most of it bad. A tax of $6 a barrel would have netted the Government $300,000,000.

This is a time when this revenue should accrue to the Government instead of the pockets of the racketeers and beer runners, a group certainly not in favor of this legislation. If for no other reason than this, I would have this measure pass when it comes before the House to-morrow. [Applause.]

Mr. HAWLEY. Mr. Chairman, I yield the remainder of my time to the gentleman from Virginia [Mr. LANKFORD].

Mr. LANKFORD of Virginia. Mr. Chairman, I can not add anything to this discussion to-night, and I do not want to add anything to it. I have been more troubled about this bill than any bill that has come before us since I have been a Member of this House. [Laughter and applause.] I was interested in the remarks of the gentleman from Texas [Mr. SUMNERS] a moment ago; and I believe if we could all approach this subject in the kindly manner in which the gentleman from Texas has, we would not have any trouble about it, and we could solve it. Like the gentleman from Texas, I belong neither to the rabid wets nor rabid drys, and I feel like saying, "Good Lord, deliver me from both sides." [Laughter.]

I consider that this last election was a mandate to me. It was a mandate that while I had been elected twice before by a very good majority, I was defeated this time 2 to 1, but my opponent stood for the Democratic platform of submission and repeal. I stood for repeal with safeguards and without modification until the question had been submitted, as suggested by the gentleman from Texas [Mr. SUMNERS].

I respected that mandate, and I voted for the immediate submission without any safeguards, although I would have preferred safeguards to be in it, but I respected the wishes of the people I represent to that extent. I wish I could do so in this instance, but I can not. The only thing that stands between that and my doing so is the Constitution of the United States.

I can let the people of my district and of the State I represent decide the submission question for me, but I can not let them decide the question of my conscience as to whether or not this is an infringement, a restriction of the Constitution of this country that I have sworn to support.

Now, I would like to take advantage of the tax that would flow from this bill and the employment it would give, and I would like to get the psychological advantage I believe this country will receive from it, but I am frank to say I can not see how I can do it until the amendment is repealed. Then I will be glad to vote for such a bill. I believe the gentleman from Texas is right. As long as I am a Member of this House and as long as the eighteenth amendment is in the Constitution, I shall support it freely and frankly.

Mr. McSWAIN. Mr. Chairman, will the gentleman yield?

Mr. LANKFORD of Virginia. I yield.

Mr. McSWAIN. Of course, until the eighteenth amendment was repealed, this Congress would have no jurisdiction as to the intoxicating nature, or alcoholic content, of any beverage sold.

Mr. LANKFORD of Virginia. That is perfectly true; yet it is clear to my mind this bill provides for a beverage which is intoxicating in fact. While it is not very intoxicating, yet to my mind it does infringe, and I am not impugning anybody's motives; I am just as frank and honest about that as my friend, but I believe it does infringe the Constitution, and for that reason I can not support it.

Mr. STAFFORD. Will the gentleman yield?

Mr. LANKFORD of Virginia. I yield.

Mr. STAFFORD. Does the gentleman believe that the decretum in the Volstead Act that everything over one-half of 1 per cent by volume is intoxicating is a correct statement of fact?

Mr. LANKFORD of Virginia. No. As I say, I would be willing to increase that to 2.75 per cent, possibly.

Mr. STAFFORD. The gentleman will probably have an opportunity to vote for such an amendment, and then he will be able to support the bill.

Mr. LANKFORD of Virginia. I would be glad to be able to. I would not object to doing that at all.

Mr. BLANTON. Mr. Chairman, will the gentleman yield?

Mr. LANKFORD of Virginia. I yield.

Mr. BLANTON. If the alcoholic content were fixed at 2.75, does the gentleman from Virginia believe the gentleman from Milwaukee would drink any of the stuff?

Mr. STAFFORD. Well, the gentleman from Milwaukee has drunk a lot of 2.75 beer, and he will state that it is a good, palatable beer. I do not know whether the gentleman from Texas has ever been so liberal as to drink anything that bore the name "beer," whether it were sassafras beer, spruce beer, or rice beer.

Mr. LANKFORD of Virginia. The gentleman from Wisconsin is an expert on that. I will take his say-so on that.

[Here the gavel fell.]

Mr. CHINDBLOM. Mr. Chairman, I believe I have four and one-half minutes remaining. I yield the balance of the time to the gentleman from Michigan [Mr. CLANCY].

Mr. CLANCY. Mr. Chairman, it is a great honor to close the general debate for the wet Republicans of the House on this historical measure. For many years I have fought for legal beer and have taken and given many heavy blows in the cause.

Earlier this afternoon I had a colloquy with the gentleman from New York [Mr. O'CONNOR], who has just been gracing the chair, presiding over the House so admirably, with regard to section 7 of this bill.

Now, I shall support the bill, and I want to see the bill passed. I realize the danger of loading it down with amendments. But, very briefly, this section 7 has as its purpose the protection of the dry States, and it provides that any

person who orders or purchases one or more bottles of beer shall be subject to a fine of $1,000 or six months in prison, and that for a second offense of ordering one or more bottles of beer—and this is the terrible language in that section—it shall be mandatory that the man or woman or child be sent to jail for one year. Remember that a Federal jail sentence for a year or less is not parolable, and that is a cruel joker.

We wets justly criticize the ardent drys for their fanaticism in proposing cruel and excessive punishments and for defending and encouraging prohibition agents who murder innocent persons. There is an amendment to the Constitution relating to cruel and excessive punishments, stating they are not justifiable. The language of the eighth amendment is that no excessive fines nor cruel and unusual punishments shall be inflicted.

I submit that for a first offense of ordering or purchasing one bottle of beer and bringing it into a dry State a fine of $1,000 or six months' imprisonment is cruel and excessive. Mandatory imprisonment of one year in jail without the alternative of a fine for a second offense is cruel and excessive beyond the shadow of a doubt. Of course, some might say if one votes dry and lives in a dry State and then that person buys beer, give him the limit; but remember the minority in the dry States. There are some good people who are wets in dry States and who vote wet and who did not do anything to make the State dry.

They still want good beer, and this section punishes them terribly if they try to indulge.

It is a mean and a cruel provision.

Remember the infamous Jones-Stalker five years and $10,000 prohibition law. The penalties were applied to the manufacturer and seller of illegal liquors. But the penalties of section 7 are on the purchaser, or one who orders beer.

The gentleman from New York [Mr. STALKER] said to-day he was opposed to the bill, but surely the coauthor of the Jones-Stalker law did not read closely section 7, or he would understand that it would fill the prisons with pretty good people, as did the Jones-Stalker bill. But why ask good wet Members to vote for such a terroristic section?

We have heard this afternoon the usual sophistry and the usual hypocricy with regard to prohibition. We have some speakers here trying to make out that Christ, the founder of Christianity, was a dry, a prohibitionist, and a teetotaler, when every student of the Bible knows he was the exact antithesis of a prohibitionist and was a temperance man. Every student knows that the Pharisees were the drys and the prohibitionists of that time and that they called Him a wine bibber and mocked Him. Every student knows He made wine and drank wine of alcoholic content, and every student of the Bible knows that it was the prohibitionists and Pharisees who jabbed Him and put Him on the spot and lied about Him and had Him crucified.

It was the Pharisees who brought Him to trial and said he preached false and heretical doctrines.

The doctrine of the prohibitionist is an anti-Christian doctrine. It is now a Mohammedan doctrine coming from pagans and infidels, the depths of Asia, in pre-Christian times.

We have heard to-day Members of the House moan over possible nullification of the eighteenth amendment; men who do not protest at the violation of the fourteenth amendment through the disfranchisement of millions of colored people in the South and have been born and reared in an atmosphere of violation of that amendment. Neither one of the two great parties dares to say that they advocate the repeal of the fourteenth amendment, whereas both of them in one form or another have advocated the repeal of the eighteenth amendment, one being more pronounced than the other. Yet drys talk about the will of the people and the sacred Constitution with their tongues in their cheeks and weep crocodile tears.

We are discussing here constitutional grounds and trying to bring up technicalities for objections to legal beer when the supreme people gave an overwhelming mandate for it at the election November 8 last.

MY RECORD INDORSED

For at least nine years I have had my beer bills pending before Congress and have fought hard for a longer period of years to arouse the country to the support of these and similar bills, including my bill to repeal the eighteenth amendment. Therefore it is with great personal satisfaction that I greet the wet victory of November 8 last and the sled-length indorsement which the American people gave my arguments, even though it was a tardy and long-deferred acknowledgment. That victory is a sweet and healing ointment to many wounds which I received in the long-drawn-out war against nation-wide bone-dry prohibition.

Nor do I shed any tears over the fact that I became a casualty in the very hour of the overwhelming victory for which I fought and which victory I helped win in my city, my State, and my country. He who lives by battle must accept cheerfully the fortunes of war.

I appeared before the House Ways and Means Committee on December 9 of this year and urged a favorable report on this bill. I pointed out then, as I do now, the evils of prohibition and the benefits which will be derived from the legalization of good beer. It was most gratifying to me that the committee reported the Collier bill, which is similar to my bill, and brought it to the floor of this House. In my opinion, this bill, if passed, will produce about $300,000,000 per year in Federal revenue and will soon make it possible to kill or substantially decrease Federal sales taxes on automobiles, tires and tubes, radios, checks, pharmaceutical products, and on industries which are now suffering grievous discriminating burdens under unfair Federal sales taxes and which will become more prosperous when they are killed.

PROHIBITION PRODUCES CRIME

Legal beer will diminish crime, which is flourishing because of the eighteenth amendment and the Volstead Act, and which in the big cities at least has become unbearable and intolerable.

Four gangsters a few days ago entered a "blind pig" in St. Clair Shores, a village near Detroit, and killed an innocent man, William Marshall, a milkman. They also shot and wounded four other persons who were in the place. This was nothing but a routine killing to the police. They have become accustomed to it since 1918, when a marked increase in murder began with the enactment of prohibition.

The people of Michigan repudiated the State prohibition law on November 8 of this year. As a result of this police predict that there will be a marked decrease in homicides caused by the dry laws. It will also enable them, they say, to devote more of their time to other major crimes.

LIQUOR AND "BLIND PIG" MURDERS

These four gangsters who committed the murder a few days ago were said by police to be after another one of their kind in on the rackets which prohibition has made possible. They were waiting for the slot-machine man, whose machines are found in every one of Detroit's thousands of "blind pigs."

Shortly after the country went officially dry in 1918, Detroit gangsters' guns began to take each other's lives. Murders included policemen, bartenders, stool pigeons, and often citizens who happened to be in the vicinity of the shooting. Police records show that when men began to battle for the profits to be gained from illicit liquor as a result of prohibition there was a sharp increase of those who died violent deaths.

Inspector John I. Navarre, head of the Detroit homicide squad, said publicly a few days ago that frequently police can not tell whether the murder is due directly to the rackets which have sprung up during the last 14 years. He also said that at least 25 per cent of all homicides are due to prohibition in one way or another.

In 1918 there were 42 homicides in Detroit. There were 107 last year, and this year the murder list will pass 100. In 1926, 225 Detroiters were murdered.

The old stock of preprohibition liquor became exhausted in 1922, and immediately an increase in crime became apparent. Then cutting operations started. Alley breweries and underground distilleries began to flourish. Killings followed in mass numbers, with gangster highjacking and smuggling on a large scale. It was then that yearly murders in Detroit rose above 100 and remained there.

Included in the prohibition killings in the Detroit area are some of the most heinous crimes in police annals. Probably the most sensational and spectacular was the cold-blooded murder of Gerald E. (Jerry) Buckley, prominent Detroit radio announcer. He was "put on the spot" while sitting in the lobby of his hotel by three racketeering gunmen associated with Detroit's gangland. This sort of killing was scarcely known in my city before prohibition.

PROHIBITION AGENTS KILL INNOCENT PERSONS

Then there was the terrible murder of Henry Neidermeier, an innocent old letter carrier who was shot in the back by bullets from high-powered rifles fired by blood-thirsty prohibition-customs border patrolmen. The mail man was returning from a duck-hunting trip one afternoon on the Detroit River. As he neared the shore, two agents, hiding on the bank, shot him in the back from a distance of 30 feet. The old man lingered for three days and died. Not a drop of contraband was found in his duck skiff. I started the investigation that sent one of the patrolmen to prison.

I could go on to tell of scores of murders in my city which have been brought about by racketeers and gangsters who have grown up with prohibition.

FEARLESS PROSECUTOR TOY

Thanks to the fearless efforts of Prosecuting Attorney Harry S. Toy of Wayne County many of the leading killers are serving life sentences in prison. Some of them have met the fate at gangsters' hands they have meted out to others. But the most recent killings a few nights ago prove that gangsters' guns are still barking, and I say they will continue to bark until we do something about this vicious law. We should pass this beer bill now and set out immediately to repeal the eighteenth amendment in its entirety.

In a study just completed the Crusaders have estimated the cost of prohibition at $34,000,000,000 in the last 12 years, or a yearly cost in men, money, and materials of close to $3,000,000,000. Their findings also show that in 13 years 2,089 citizens have been murdered as a result of the prohibition law and 513 agents and their assistants have been killed.

Legal beer will cut the cost of maintaining prisons and courts and will make it possible to abolish Federal prohibition appropriations for the customs border patrol, the Coast Guard, and the land prohibition forces.

This saving alone of direct and indirect costs should result in a saving to the American taxpayer of over $50,000,000 per year.

Employment would be given to hundreds of thousands of workingmen who are now unemployed, and many industries would serve the brewing interests with many millions in raw and manufactured materials. Transportation companies and places of business would receive hundreds of millions of dollars for their services and facilities. For brevity's sake I will not elaborate on the above arguments.

HOW TO SELL BEER

The beer can be sold and served like soft drinks and other nonintoxicating beverages, in groceries, hotels, cafés, lunch rooms, restaurants, drug stores, and so forth. Beer would satisfy most people, and they would not want a more fiery drink. Beer thus would promote temperance.

The beer should be sold in bulk at 5 cents per glass and in bottles at 10 cents per bottle. As in Ontario, beer should be sold also in kegs of different sizes, such as eighth barrels, quarter and half barrels. This beer could carry a tax ranging from $5 to $6 per barrel, including both Federal and State taxes. If the tax is made too high, it will kill or sicken the goose that lays the golden eggs. It is becoming an axiom of sales taxation that too high a tax decreases the revenue gained by the Government. In this case exorbitant taxes would lead to illicit manufacture and decreased consumption of legal beer.

EVASIONS OF MALT AND WORT TAXES

The racketeer has lately scored a new triumph over the State and Federal Governments. In Detroit untaxed beer is supplied over 10,000 blind pigs and beer flats, cheating the State and Federal Governments out of millions of dollars in taxes.

The principal ingredient of beer, brewer's wort, goes from the wort breweries to the alley breweries untaxed and right under the noses of the inspectors. I predicted this would happen when I protested against this high malt and wort tax on June 4, 1932, in a speech in the House.

Although the inspectors see that the product going out bears stamps, they do not see that they are canceled. Stamps are used over and over again. The State has no direct means of knowing when a stamp is being used again, no serial numbers being on the stamps. The wort maker finds it profitable to use his stamps again. With his 5,000-gallon nightly output, this practice saves him $250. If he also evades the Federal tax, his cheating saves him $1,000.

An additional profit of $1,000 is made by charging the alley brewer on the basis of the tax which was supposed to have been paid.

Legitimate Michigan wort and malt factories have had to close down because they can not compete with other State products sent to the alley brewer and home brewer. In speeches on the floor of the House and in statements before Senate and House committees, I have advocated the beer-for-revenue idea, and I have frequently predicted increases in unemployment so long as the prohibition law remained on the statute books. In the past year 3,000 men have been thrown out of work in Detroit in malt and wort factories alone which were forced to close down. I predicted in speeches in Congress last session the evasion of malt and wort taxes and shutting down of factories.

One of Detroit's outstanding authorities on legitimate brewing points out that the stamp-tax method of collecting revenue from manufacturers of malt products has failed and that it is the easiest way for a dishonest manufacturer to evade the tax. He says that the past records of the Detroit office show that it has been a practice by numerous brewers to evade the stamp tax by using the stamps over and over again. He states, further, that he has no doubt but that the Detroit practice has been duplicated all over the United States and must amount to many millions of dollars' loss in revenue.

This Detroit expert also said:

The absolute sure way which will enable the Government to get every dollar that it is entitled to is to tax the material at the source, there being but 15 or 16 maltsters in the United States and perhaps not more than a dozen dealers in rice and corn products used in the manufacture of malt products. It is easy to see how little work would be necessary to obtain the amount of material shipped to manufacturers, so as to enable the Government to have a complete check-up at very nominal expense. This method would eliminate at once the so-called wort manufacturer, alley brewer, and home brewer, as he would in this case be put on the same basis with the legitimate brewer and could not commit frauds and evasions which are now so greatly practiced, as has been shown by the court records.

If you have followed up the matter of the malt-sirup tax in the various States, you must be aware of the fact that not alone are the stamps used over and over again but are also counterfeited and sold cheaply to the dishonest dealer and also wort manufacturers. The wort manufacturer and home-brewer can only be eliminated by putting him on the same basis with the legitimate brewer and taxing the material at the source. You are perhaps also not aware of the fact that a great many home-brewers do not alone manufacture beer for their own use but are selling it in their respective neighborhood to grocers and soft-drink stands in small quantities, although in the aggregate it amounts to a very stupendous figure.

It is our duty as representatives of the people who so overwhelmingly repudiated prohibition at the polls last November 8, to carry out their wishes and pass this bill.

I reiterate that it will swell the coffers of the United States Treasury and bring about a substantial relief of unemployment.

[Here the gavel fell.]

Mr. COLLIER. Mr. Chairman, I yield one-half minute to the gentleman from Massachusetts [Mr. CONNERY].

Mr. CONNERY. Mr. Chairman, at the age of 14 I became a member of the Father Matthew Total Abstinence Society, of my home city of Lynn, Mass. At that time, upon my entrance into this society, I took a pledge to abstain from intoxicating liquors of any kind. I am pleased to say that I have never violated this pledge. [Applause.]

I intend to vote for this bill because I believe the bill is constitutional, and I believe that the modification of the Volstead Act will promote temperance among the people of the United States. [Applause.]

Mr. COLLIER. Mr. Chairman, I yield the balance of my time to the gentleman from Illinois [Mr. BEAM].

Mr. BEAM. Mr. Chairman, in the two minutes allotted to me it is impossible to advance any reason or make any extended argument in support of this measure. However, I wish to make this observation. For the last 10 years we have been living under unnatural circumstances. We have seen Federal agencies of our Government go into the homes and hamlets and ferret out men and try to criminalize and penalize them, and hold them up as criminals before the world because they had in their possession a bottle of beer or a glass of liquor. The time for such fanaticism is now passed. In no uncertain terms, on the last election day, there was a mandate given by the people of the United States when their sentiments were expressed in so forceful a manner to the great agencies of our Government. They demanded a new deal. They demanded repeal of these iniquitous practices, if you please, which have cost our Government billions of dollars, and have taken thousands of lives of citizens of the United States in an attempt to enforce a law repugnant to our institutions of free government.

Only yesterday we appropriated $30,000 to pay for the lives of two Mexicans. I may ask you, how many men have paid the penalty, American citizens, if you please, shot down by these Federal enforcement agents, and their families have not received one penny for the iniquitous action of these enforcement officers. The time has come now when the American people, through the great Congress of the United States, standing in the constitutional light of public sentiment, must take action; and public sentiment is more powerful than all the constitutions ever written, as anyone knows who is at all familiar with the history of the great nations of the world.

We can no longer deny to our citizens the right to personal liberty. We can no longer appropriate large sums of money for the enforcement of a law so un-American in its fabric and has resulted in such deplorable conditions to the people of the United States.

The passage of this bill, Members of the House, will tend in some measure to relieve the tenseness of the situation, reduce in a large measure the number of unemployed men, and bring into the Treasury of the United States a substantial sum of money for the maintenance of our Government.

Mr. COLLIER. Mr. Chairman, I move that the committee do now rise.

The motion was agreed to.

Accordingly the committee rose; and the Speaker having resumed the chair, Mr. BANKHEAD, Chairman of the Committee of the Whole House on the state of the Union, reported that that committee, having had under consideration the bill (H. R. 13742) to provide revenue by the taxation of certain nonintoxicating liquor, and for other purposes, had come to no resolution thereon.

JUSTICE TO THE INDIANA LIMESTONE INDUSTRY

Mr. LUDLOW. Mr. Speaker, I ask unanimous consent to extend my remarks in the RECORD.

The SPEAKER. Is there objection?

There was no objection.

Mr. LUDLOW. Mr. Speaker, considerable publicity, favorable and unfavorable, has been given the Indiana limestone industry through various discussions on the floor of the United States House of Representatives. As one who has some acquaintanceship with that great industry, I ask leave to present to the House and to the country certain facts, to the end that obvious injustices may be corrected.

Last Tuesday afternoon, as you know, a proposal was offered in the form of an amendment to the Treasury appropriation bill, urging the advisability of instructing the Treasury Department to use nothing but construction materials native to the location of erection on all public buildings. Naturally, it goes without saying that such legislation was defeated, as serious reflection would forecast no other possible result. Many statements were made in the debate of an incorrect nature, and it seems to me a good deal of prejudice based on misinformation was evidenced against Indiana limestone. I feel that at least some of these statements should be met and refuted by actual facts, and it seems to me that a great national industry, such as we have in the State of Indiana, is entitled to a hearing.

The great oolitic stone deposit in southern Indiana is the only one of its kind on this entire continent. As a matter of fact, there is only one other like deposit, which is identical in chemical analysis and composition, and that is the famous Portland quarries of England, which have furnished the facing of the majority of England's monumental buildings for the past 1,500 years.

Nature has composed Indiana limestone in such a manner as to represent the sum of all the qualities which an architect, an engineer, and a prospective builder exercising their combined talents would ask for in a building material. It is beautiful in color and texture; it is extremely strong; it can be worked with great facility and perfection and is practically everlasting.

POPULARITY DUE TO MERIT

Indiana limestone does not owe its popularity to politics, either municipal, State, or Federal. During the years of 1920 to 1930, inclusive, when so-called public work represented a mere drop in the bucket of general construction activity, the Department of Commerce records show that the 10-year average for the use of this material registered 76 per cent against 100 of all architectural building stones. During this period, particularly, Indiana limestone became actually the Nation's building material. The most costly structures in every State of the Union and Canada, with few exceptions, were either faced or decorated with Indiana limestone.

A great hue and cry has been raised at various times in Congress to the effect that the Indiana limestone industry has enjoyed a disproportionate benefit from the Federal building program. The facts prove otherwise, for according to the last report of the Department of Commerce's records (1931) the position of Indiana limestone has receded from 76 per cent to approximately 47 per cent, and this tremendous drop is due entirely to the policy of the Treasury Department to distribute the benefits of the building program to as many interests as possible. We have many definite records of the Federal Government where, because of extreme employment emergencies, large preferences have been paid for the use of native material, even though the Bureau of Standards' records show such native material to be of inferior quality compared with Indiana limestone.

There have been many post offices erected in New England, the great majority of which have been constructed in whole or in part of native granite, in spite of the fact that without exception every New England State and municipality has heretofore used substantial amounts of Indiana limestone in its buildings because of the tremendous saving in the comparative cost of the two materials.

Take the State of Ohio, for example, where possibly 100 new Federal buildings have been erected during the past two years, and the records show 95 per cent plus to be constructed of native materials.

Representative TOM BLANTON, the brilliant and able champion of Texas stone, evidently was not in possession of up-to-date information when he made the statement that of all the fine building stones quarried in the State of Texas none of the material had been used in Federal work. I am informed that the records show that with two exceptions every new post office building erected during the current year in

Texas was constructed of native Texas materials, and in the past two weeks the new post office at Jacksonville, Fla., and the new post office at Alexandria, La., both substantial jobs, have been awarded on the basis of Texas stone for facing.

Information furnished to me by Indiana friends is that in 1931 no Indiana limestone was used in any Texas job. In that same year Texas stone was used in constructing 10 separate Federal buildings in Texas, requiring a total of 109,020 cubic feet. In addition, Texas stone was used that year in five other jobs in the States of Virginia, Mississippi, Louisiana, and Arkansas, totaling 5,637 cubic feet.

In 1932 Indiana limestone was used in two Texas Federal buildings requiring 17,610 cubic feet of stone. As against that, Texas stone in 1932 was used in six Federal buildings, aggregating 37,513 cubic feet. Texas stone also was used in 1932 in four jobs in Georgia, Louisiana, and Florida, aggregating 77,885 cubic feet. Texas, therefore, had made a very fine showing, and the distinguished Representative from that State [Mr. BLANTON] certainly has nothing to complain about.

LOCAL PRODUCT PREFERRED

On the Pacific coast I know of but two Federal projects which have been constructed of anything but native materials, and incidentally the native product was given a substantial preference over other satisfactory materials which the Government could have purchased from other than native sources. For example, on the post office at Portland, Oreg., Indiana limestone could have been furnished at a saving of $70,000 to the United States Government, to say nothing of $40,000 which would have been given to the great basic railroad industry for freight on the Indiana product. Not only this, but, according to the Bureau of Standards' records, Indiana limestone is a much superior building material to the native stone used, but I am advised the administration felt that the local employment emergency warranted this increased expenditure. This principle has been applied quite freely, so much so that our Indiana industry's anticipation of Federal contracts has been a distinct disappointment; and the inroads, in many cases of very inferior products, have reduced our market materially. The Indiana limestone industry has had to submit to a great deal of criticism for what some competitors consider too liberal use of limestone in the Washington Triangle development.

Politics had no bearing whatever in the selection of material for this Triangle. Secretary Mellon appointed a consulting group of architects, representative of the greatest in their profession from all sections of the country. This body made very intensive investigations into all building materials and, after a year's study, selected Indiana limestone as the facing material because of its cheapness, combined with its beauty and its wearing qualities. It was found that from the point of view of economy the accepted designs would require an approximate additional expenditure of three to one, as compared with Indiana limestone, that is to say, a similar marble or granite facing would cost approximately three times as much as limestone. This decision, however, did not eliminate the use of either marble or granite, as the lower part of the buildings consist of granite, and the interior trim of marble.

DISCRIMINATION UNFAIR TO TAXPAYERS

We who are best acquainted with the Indiana limestone industry resent so many current references voiced, particularly on the Hill, about politics having to do with the use of Indiana limestone in Federal work. We feel that the popularity of limestone is due primarily to the merits of the product itself, supplemented by the momentum given through the publicity of its wide use throughout the entire continent by the best architects, engineers, and builders in private practice covering a period of almost 100 years. Our Indiana material is rarely specified exclusively on Federal work, so that we are always in competition with other building materials, and the only way the Indiana limestone companies receive contracts for public work is to submit the lowest responsible bid. The United States taxpayer is entitled to the most he can get for his money, and if the use of Indiana limestone can save the Government millions of dollars, besides furnishing transportation to a great basic industry in urgent need of business, and at the same time supply a needed construction material far more meritorious than many native products, we can not see any just reason for discrimination due only to its location.

We feel that careful perusal of the records will prove that the Indiana limestone industry has been unjustifiably criticized for its percentage of Federal work and that actually it has suffered infinitely more than would have been the case had sound business judgment and sheer merit been the only measuring stick; and that politics, to the extent it has entered the equation, instead of improving the status of the limestone industry has actually retarded its progress.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted—

To Mr. MCGUGIN, indefinitely, on account of illness.

To Mr. FREE, indefinitely, on account of illness.

To Mr. HOLLISTER, indefinitely, on account of illness.

To Mr. BUTLER, indefinitely, on account of illness.

To Mr. MOBLEY, for several days, on account of important business.

EXTENSION OF REMARKS—THE BEER BILL

Mr. COLLIER. Mr. Speaker, I ask unanimous consent that all Members of the House may have five legislative days within which to extend their own remarks on this measure in the RECORD.

The SPEAKER. Is there objection?

There was no objection.

Mr. CLARKE of New York. Mr. Speaker, both the Republican and Democratic Parties pledged themselves in their platforms to "prevent the return of the saloon," the former (Republicans) by a specific proposal to embody this pledge into any law or modification of the eighteenth amendment, the latter (Democrats) by political promises in their platform. The Democrats of the Ways and Means Committee have proven "broken promises" in the Collier beer bill before us, because in committee the motion to incorporate in the bill the necessary language to prevent the return of the saloon was defeated.

The greatest opportunity for squarely meeting the wet-and-dry issue is provided in the resolution of Senator GLASS. This preserves the gains for temperance, specifically provides against the return of the saloon, honestly meets the promises of both parties, can get the necessary two-thirds vote in the House and, I believe, in the Senate, so the people will have their chance to express themselves in the regular, constitutional way.

This Collier beer bill, with the policy proposed, means the inevitable return of the saloon, and I can not vote for it, as I assured my people before the primary and election I would vote for resubmission, which was as far as I would go. I will not break faith. The Collier beer bill does not meet the issue squarely.

To "help balance the Budget" by revenues based on a law of uncertain constitutionality is bad business, worse statesmanship, and political perfidy.

Since I voted against Speaker GARNER's gag procedure and repeal resolution, I have received a great number of threatening letters. Here are a few samples, copied exactly as they came to me, that seem to indicate that some of our papers are doing a bad job in inciting their readers into a most dangerous frame of mind on a national problem where people may honestly differ:

Traitors should be hung.

ARTHUR SEASTRAND,
378 E. 29th st., Brooklyn, N. Y.

DEAR CONGRESSMAN: I am a loss to understand your reason for Voting against the Garner Repeal. Bill after all the money belonging to the People. Remember that. Part that has been squandered and you might say Throwndaway Drying to inforce the Bigest Bunch of Bunk that was ever put on the American People and after the People Spoke so Loud on election Day Denouncing that still you Stand Out and Try to Still Continue it with only one thing for you to gain and that is to put your Self in the Lame Duck class next Election Day. Who Will there be to greet you on

your Return Home Out Side of Pussey Foot Johnson he is from around Broome County to my notion you have ended your Public Life and can make up your mind to retire Gracefully.

T. H. KAVANAUGH,
Kensington Hotel, Cleveland, Ohio.

DEAR SIR: Your vote on repeal renders you a traitor to the wish of the people, a disgrace as a Congressman from the State of New York. Millions pray for you hypocrites from New York State. I can assure you you would not like to hear the prayer.

O. J. MASTRUP,
Box 41, Steinway P. O. Station,
Long Island City, N. Y.

DEAR SIR: You are a hypocrite to vote against the repeal of the 18th Amendment, and you ought to be ashamed of yourself.

Yours for repeal

W. F. METZGER,
1957 Bronxdale av., Bronx, N. Y.

Your negative vote to the Repeal measure which we "peepul" voted for in Nov. is insulting and puts you in a class of small persons and bullies.

LILIAN BALDWIN,
New York City.

DEAR MR CLARK: It is to bad you are going to be looking for a job after the 4th of March but if you had common sence you would be like the rest of the normal Congressmen and vote for repeal of the 18th Amendment the bootleggers are very glad to have people like you in and swelling there bank accounts while Uncle Sam is going broke and they wont lend him a cent either they even want the Bonus paid so the veto will blow it in with them and still you drys wont be able to get a job as bartender from them or the others dry fellows who helped you hold up the dry law when you loose your job in congress just come to N. Y. City and look it over and see the speakys and the guys out side on watch every door has one and if there aint between 2 and 6 bootlegges in every house apartment in N. Y. I don't know what I am talking about and U Sam not getting a cent of revenue.

Your friend

ARCHIE BUTTS,
721 Amsterdam av., New York City.

A glass of good beer never did anybody any harm, but the beer in the Collier bill has a "kick" in it, and it is the "kick" that is unconstitutional. When both the Republican and Democratic Parties pledge themselves to prevent the return of the saloon, why do not they keep faith in the bills they sponsor? I do not see why even politicians can not deal frankly with this question; as I say, I believe the people have a right to vote, and I am pledged to give them that chance in resubmission, preserving the gains for the temperance cause, as embodied in the Glass resolution.

When every milk producer in the New York milk shed is broke, when hundreds are threatened with the loss of their farms because of inability to pay taxes, when other hundreds are being carried by the banks—feed dealers, country merchants, in many instances as acts of mercy, are trying to help out our farmers—I can not feel this is the time for such a questionable procedure on beer.

After having promised my constituents before primary and election how far I was willing to go through resubmission to the people, I propose to stand unscared by the threats of political extermination from the readers of the yellow papers outside of my district and willing to submit my candidacy to the voters of my district, whom I represent, and who, even before the eighteenth amendment became a part of our Constitution, had in every township but two in my district voted dry. Put my votes and records to the acid tests of service and keeping faith with my constituents; I am willing to succeed or fail as that acid test is honestly applied.

Mr. HARLAN. Mr. Speaker, it is indeed very touching to hear and behold the scruples of the Members of Congress who are disturbed about the conflict between voting for the proposed bill and their oaths to support the Constitution. After listening to approximately 40 speeches, I have heard none of the conscientious objectors cite any authority of any competent court that would indicate that the present bill in any way violates the Constitution of the United States; and, until such a decision is made by a court, it would seem to me as almost apparent that it would be well for us to let the constituted judicial authority determine such questions while we, as legislative officers, proceed in the functions which we are elected to perform.

The gentleman from Illinois [Mr. CHINDBLOM], I believe, placed his finger directly upon the crux of our difficulties when he said that the eighteenth amendment was in reality a statute. That is exactly what it is—a statute without a definition of terms and without a penalty clause. It is a statute placed in our organic law, where it ought never to have been placed, and having been placed there, it has presented problems never before presented to any court in construing our fundamental charter of government.

Now, the people of the United States having adopted this statute and having failed to pass any terms of definition or any punitive clause in the statute, it becomes the responsibility of the Congress to define terms and fix the punishment. In performing this service, since there is no provision limiting the power of Congress, it is difficult for anyone who tries to keep his emotions subservient to his intelligence to be convinced that this Congress, in exercising its best judgment in the definition of terms and in the fixing of punishment, is in any way violating the Constitution.

Under the constitutional authority of the Federal Government over foreign commerce this Congress has passed certain acts pertaining to smuggling, and in those acts they have stated that the importation of certain minimum value in goods shall not be considered a crime. As the amount involved is not sufficient to seriously injure the revenue of the country, and by allowing a little latitude in the law, undoubtedly wholesale smuggling is at least curtailed.

Now, in the proposition before Congress, if in defining the term intoxicating liquor, which the people of the United States apparently after years of deliberation decided to leave undefined in the Constitution, this Congress should say that in anything like reasonable use a beverage containing 3.2 per cent by weight ought not be classed in the category of those intoxicating liquors referred to in the Constitution; and if this Congress should also say that, waiving that point whether it is intoxicating or not, the common sense of this body and the good government of the whole country require that no punishment shall be meted out to anyone who under proper regulations manufactures and sells a beverage containing this amount of alcohol, who is going to say that this Congress in exercising its power to impose or not to impose a punishment for a particular act is in any way, in any manner or form, violating the Constitution?

It was Secretary Seward, I believe, who, during the Civil War, said that there is a higher law than the Constitution. That higher law, of course, is the elemental principles involved in the self-preservation of free institutions, many of them set forth in the Magna Charta, the Bill of Rights, and the Declaration of Independence. When the people, under false leadership or emotional excitement, inject into this basic charter a regulation which, in order to give it a certain effect, would necessitate the violation of these express principles of free government, then I submit that the legislative body is but exercising its own functions when it so interprets the Constitution as to make it compatible with the self-preservation of government.

We have found in the last 12 years, that in order to give a drastic interpretation of the term "intoxicating liquor," it has been necessary for us to deprive the people of the right of trial by jury, to take from them their presumption of reasonable doubt, to place them twice in jeopardy for the same offense—to construe criminal statutes "liberally" to remove the presumption of innocence, and, in fact, to violate every law that our Anglo-Saxon civilization has developed for the preservation of free government.

Now, in the name of common sense, why would not this body be fulfilling its highest constitutional duty by adopting such an interpretation of intoxicating liquors as will not only reasonably comply with the Constitution but will tend to redeem to the people those rights which a radical and false interpretation of intoxicating liquor has taken away from them? There is no inforceable obligation on the legislative body to pass any law to enforce a provision of the Constitution, and this prerogative has been many times exercised by the Congress of the United States and the legislative bodies of the various States.

Section 3 of Article I in the Federal Constitution provides that there shall be a census of the United States taken every 10 years and representation in Congress regulated accordingly. There was no reapportionment provided in 1920 because the very group, the Anti-Saloon League, the Methodist association for the control of other people's morals, and others who are now so sanctimoniously, piously, and hypocritically trying to usurp the functions of the Supreme Court in deciding in advance constitutional questions and trying to intimidate and terrorize the Members of this Congress into carrying out their own interpretation of the Constitution were the ones who cracked the whip over Congress in 1920 and prohibited a law calling for this reapportionment. Why? Because in 1920 the rural population was represented in this Congress many times their proper and constitutional strength because of the rapid migration of people from the rural districts to the cities, leaving rural districts thinly populated and the city districts highly overpopulated.

In the State of Ohio to-day, for example, the voters in the tenth district, represented by a prohibitionist, have just four times the power of the voters in the twenty-second district, represented by an antiprohibitionist. Who was there in 1920 handing out pious cant about upholding the Constitution of the United States?

Again, we have the fourteenth and fifteenth amendments, the merits or demerits of which are decidedly beside the point in this discussion, and concerning which this Congress has never even made a pretense of trying to enforce; and the three Democratic gentlemen who filed the minority report on scrupulous constitutional grounds in this case come from sections of the country that pay no more attention to these two amendments to the Constitution than if they did not exist. The people in those sections obviously think that this is necessary for the protection of their institutions. They believe, with Secretary Seward, that there is a higher law than the Constitution of the United States, but it seems to me to be a little illogical for the representatives of those people to be so extremely touchy about the Constitution in one particular and so careless about it in another.

The Democratic platform promised the people of the United States a modification of the Volstead Act, and the people voted for the Democratic Party when they promised that modification, and they did not mean a modification which would give no real relief to the present problems. They meant such a modification which is set forth in this bill, and the people voted for the Democratic Party with confidence that they would carry out this promise. Now, the Democratic Party, particularly that element in the North and East, is asking their Democratic brothers from the South to help carry out that program. In the days of stress and strain, turmoil and oppression, that followed the Civil War the very Methodist Church that is now cracking the whip about your heads to subvert your vote on this question was advocating that the land of the southern whites should be divided up and given away to the negroes without any consideration. Then it was the Democratic Party in the North that stood as the only protection to the people in the South in the preservation of their rights. Now the people in my section of the country are confronted with a problem almost as serious as the one which then confronted the South. Our Government, particularly in the cities, is simply being undermined and is rotting at the base. The forces of anarchy and destruction are financed in many instances better than the forces of law and order.

Our sons and daughters are being tempted and debauched as they have never been before. We want to preserve our Government and our Constitution. We feel that we are asking from our fellow Democrats of the South a very small favor in comparison with the historical debt which you people of the South owe the Democratic Party.

A very good friend of mine from the State of Texas, the chairman of the Judiciary Committee, a kindly, thoughtful legislator, is disturbed about this bill because he says that it will remove the pressure for the repeal of the eighteenth amendment. Well, the only way that can happen is for this bill to stop the violation of law and to give the people what they want. If we can do that at this time, I would far rather start this country on the course of good government now than to wait five or seven years longer for the task to be performed strictly proper and 100 per cent perfect.

There are a great many other questions involved in this touching the economic relief afforded by the bill, the reduction of taxation, and the increase in revenue which have been so often and well discussed that repetition would not be proper.

Let us have this law as a fulfillment of a promise of the Democratic platform; let us have it as a common-sense fulfillment of our obligation to interpret and really enforce the provisions of the Constitution of the United States; let us have it as at least a step in the direction of giving the people in the larger cities of this country at least an even chance to bring their children up in fairly decent surroundings; and, finally, let us have it to try at this time, and not wait five years to take one step toward the destruction of those things which are now sapping the very vital strength of this Government.

Mr. BOYLAN. Mr. Speaker, we have a sadly depleted Treasury. The passage of this bill will help to restore it to a normal condition. The Secretary of the Treasury has stated that we receive a large amount of revenue from the tax on tobacco and that it is a very dependable and important source of revenue. The new source of revenue that the passage of this bill will open will be even greater than the tobacco revenue, and it will help to eliminate our present deficit.

How much would a beer tax provide? It has been stated that in the ordinary course it would provide a revenue of $300,000,000 a year.

This amount would easily cover the interest and amortization charges on a 20-year bond issue of $3,000,000,000 of 4 per cent United States Government bonds. In addition to this we will provide work for at least one-half million men now idle in this country, which would mean the support, housing, and clothing of at least 2,000,000 persons in the United States now without work of any kind.

In addition it would help the allied trades and industries. It would help the farmer restore his barley crop and increase his barley sales 100,000,000 bushels a year. It would help the cooperage industry to the extent of about 12,000,000 new barrels. It would help the steel industry. It would help the motor industry. It is estimated that 5,000 new trucks, costing $25,000,000 would be needed. It would help the electrical industry to the amount of about $40,000,000. It would help the glass industry which would require about 900,000,000 bottles a year and provide work for eight or ten thousand men. It would help the metal industry. It would help the refrigerating business to the amount estimated at about $20,000,000 a year. It would help the wooden-box manufacturers to the amount of approximately $40,000,000 a year. It would help the bottle-making machinery $10,000,000 a year, and it is estimated that the railroads would benefit to the amount of $50,000,000 a year. In addition to this new revenue the Government will be saved the staggering cost of arresting, trying, and convicting violators of the Volstead Act.

Surely in these days of depression we will not disregard the wonderful economic benefit that the passage of this bill will provide. In addition to this we will obey the special mandate of the people of this country as expressed by their votes of November 8 last.

Mr. FERNANDEZ. Mr. Speaker, representing the elements that look forward to a clear understanding of matters pending in Congress in which they are vitally interested, I wish to utilize this means to convey to the people of the first congressional district of Louisiana, which I have the honor to represent, my level interpretation at this particular time on the liquor question.

It was in April of 1917 that the Congress of the United States declared that a state of war existed between this country and Germany. And it was in December of that

same year that a joint resolution proposing an amendment to the Constitution of the United States to become valid when ratified by the legislatures of two-thirds of the States of the Union within seven years from the date of submission to the States, was approved by Congress. The proposed dry amendment was passed by a two-thirds vote of Congress on December 3, 1917, and the promulgation of the Secretary of State on January 29, 1919, showed that the eighteenth amendment, effective after one year from its ratification, or the beginning of 1920, was legally ratified by 36 States, including Louisiana.

The constitutional amendment so adopted prohibits the manufacture, sale, or transportation of intoxicating liquors in the United States, and prohibits the importation of intoxicating liquors, or the exportation thereof from the United States and all territory under the jurisdiction of the United States, for beverage purposes. It naturally followed that the national prohibition act by Volstead was enacted into law by a two-thirds majority vote by Congress on October 28, 1919, over the veto of President Woodrow Wilson. That great statesman and Democrat, President Wilson, in his veto message to Congress on October 27, 1919, said:

> It will not be difficult for Congress, in considering this important matter, to separate these two questions—

And I want to interject here, Mr. Speaker, that President Wilson differentiated between the drastic restrictions of the war-time prohibition and what he thought should be the gradual process of law in the matter of enforcement as authorized by the then new constitutional amendment, which was to take effect in January of the year 1920. And continuing with Woodrow Wilson's veto message, we find his own verbiage—

> * * * and effectively to legislate regarding them, making the proper distinction between temporary causes which arose out of war-time emergencies and those like the constitutional amendment of prohibition which is now part of the fundamental law of the country. In all matters having to do with the personal habits and customs of large numbers of our people we must be certain that the established processes of legal change are followed. In no other way can the salutary object sought to be accomplished by great reforms of this character be made satisfactory and permanent.

In conceiving the idea that prompted the veto message of Woodrow Wilson we now see the folly of clamping down as tightly as appropriations would permit from the very beginning of prohibition enforcement in January of 1920, and we now witness the rightful reaction of the great masses of our American Republic in repudiation of continuity of a drastic war measure from its very beginning—a war measure that was only designed to protect and conserve the grain and food supply, and to follow out a mode of military discipline for the duration of the great conflict that this country was plunged into. And during the war, when demand and scarcity of grain and food supplies was prevalent, our farmers did not care so much about farm relief, and our Congressmen did not have to scan here and yonder and worry about farm-relief-issue injections. Mr. Speaker, you have the words of that eminent and great statesman and Democrat, Woodrow Wilson, in his veto message. Translated, in effect, he told us that we were destined to fail in prohibition enforcement unless the introduction of such a drastic change in the economic structure of our life was handled from the basis of human understanding, with due regard for the personal habits and customs and the moral obligations of our people. Oh, yes, Mr. Speaker, his message went unheeded, and the country was thrown into the turmoil of the strictest kind of enforcement, with the Navy and the Coast Guard participating, and with the result that numerous innocent people were killed and at one time international relationship strained.

Now, Mr. Speaker, we have witnessed the so-called "noble experiment"—13 years of a brand of enforcement that has not lessened crime, but which has created a sinister chain of gang circles unparalleled in the annals of the criminal history of our country. It is true that the underworld existed long before enforcement of prohibition, but the prohibition calamity has contributed organized bootlegging and highly financed gangdom, and has contributed to more lawlessness and arrests.

Long before the verdict of nullification of the eighteenth amendment by the American people on November 8, the thought was widespread that it was a misgiving for Congress to legislate as to what a person should drink without specifying the conventional system whereby the people would have had a direct chance to accept or reject the dry amendment. Of course, they chose the alternative, by constitutional right, to lay the responsibility on the legislatures of the various States. And so it was that ratification was acclaimed. After January, 1920, we witnessed, in terms of legislation, a shattered wet minority. We witnessed the closing down of about 1,200 breweries, throwing out of work about 500,000 men. We saw the rice growers lose their chance to sell 125,000,000 pounds of their product per year. We saw the corn farmers lose their chance to sell 666,000,000 pounds of corn a year. We saw the malt (barley) people lose their chance to sell nearly 3,000,000,000 pounds of their product a year. We saw the hops people lose their chance to sell 42,000,000 pounds of their product a year. And we saw the cane growers lose their chance to sell their equivalent of 116,000,000 pounds of sugar and sirup a year. And we saw other producers lose their chance to sell about 18,000,000 pounds of their miscellaneous products each year. And, witnessing all of this, without the power to rise, was the pitiful wet minority. But, as "time stems tide," so did it stem the tide of congressional dry strength at the first session of the Seventy-second Congress, and it was at that session, the first of my participation, that the wets, after 12 years of forced silence in Congress, had finally mustered enough votes to compel a vote in both the House and Senate of the United States on this question. So, we had witnessed the first real threat at dry usurpation and an active part of the people throughout the Nation at large for some relief from the inequities of the eighteenth amendment.

In 1930, on a poll conducted by the Literary Digest, approximately 5,000,000 people voted. Out of that total nearly 3,500,000 voted for either repeal or modification, registering the vast majority of approximately 2,000,000 on the wet side. That was the first actual attempt by anyone to poll the American people on the liquor question.

The first session of the Seventy-second Congress met 20 months after promulgation of the result of that poll. And a year later, in 1931, when the Literary Digest just confined the issue to continuance and repeal of the eighteenth amendment, a majority of 2,000,000 was registered for repeal. And it followed that both national political parties injected a plank on prohibition into their platforms. The people, by the largest majority of all time, voted the Democratic repeal plank rather than the joking Republican plank that was dry if you wanted it dry or wet if you wanted it wet. And the people of Louisiana, at the same time, voted to nullify the Hood Act for local enforcement of the dry mandate, and by a vast majority, as well, voted to petition the Louisiana Legislature to memorialize Congress for repeal of the eighteenth amendment.

Leading up to the present session of Congress, we find that repeal lost out by the narrow margin of six votes in the House. Mr. Speaker, even though it would carry in the House, it is not believed that repeal could get the necessary two-thirds vote in the Senate. Now there is up for consideration, after extensive hearings before the House Committee on Ways and Means, the Collier bill for modification of the Volstead Act to permit the manufacture and sale of 3.2 beer. The bill stipulates an excise tax of $5 a barrel, which it is estimated will yield revenue anywhere from $125,000,000 to $300,000,000 per year. While I voted, and will continue to vote, on the wet side, I am frank in my opinion that no wet legislation will be enacted at this "lame-duck" session.

Even if a satisfactory amendment to the Volstead Act could be enacted, it is a known fact that litigation will be immediately instituted that will in all probability result in suspending the provisions of the new act as long as the

eighteenth amendment is hooked on to our Federal Constitution. For, beyond the shadow of a doubt, the amendment outlaws all intoxicating liquors, and just what percentage of alcoholic content it takes to constitute a drunkard could be argued from now until judgment day without any agreement; and, since the Volstead Act stipulates one-half of 1 per cent—and that's been law since 1920—even though Congress has the right to define the alcoholic content, judgment in the end will rest with the Supreme Court.

Therefore, Mr. Speaker, it appears to me that it will be squarely up to the Roosevelt administration to live up to the responsibility voted upon them by the people on November 8, and it will become their duty to give the American public outright repeal and restore to the American farmer a market of approximately 60,000,000 bushels of malt (barley), 50,000,000 bushels of corn, 2,000,000 bushels of rye, 42,000,000 pounds of hops, 190,000,000 gallons of molasses, and 6,000,000 gallons of glucose; and so that we may restore 2,000,000 people to work by contributing to the brewery industry with resultant advantage and profit to the railroads, automotive industry, machinery industry, cooperage industry, fixture and fitting industry, plate glass and bottle industry, printing and stationery industry, power industry, besides the creation of new outlets.

And in explaining my own vote on the wet side, Mr. Speaker, I venture to say I do this under the firm belief that I am not only fulfilling the wishes of the vast majority of my constituents but I am discharging a duty that I firmly believe the human thing to do. Primarily, true human morals are a pride and an asset and part of the character of the individual, mostly resulting from a firm and rigid religious basic structure in the character of the individual. I contend that the Government should not go into moral-control matters. It is plain to see that just because a man would partake of drink that he is not violating any moral code or committing any crime, is it not? Local governments, and in some cases the Federal Government, have rigid and enforceable law machinery for the arrest and prosecution of criminals. If a man should inadvertently commit some crime which some might attribute due to liquor, he comes within that purview. A check-up on most of our present-day criminal cases will show that most of the big crime being committed to-day is through the bootlegging racketeering, attributable to the eighteenth amendment, which, I believe, is an infringement on State rights. If certain States want prohibition enforcement, let their respective legislatures provide therefor. America has succeeded as a Nation, primarily, for traditionally embracing the ideals and fundamentals of our original Constitution—supposedly a guarantee for freedom. We should do all we can to keep America in her pace.

Mr. Speaker, since we undertook to legislate on the prohibition of liquors on one of the theories that this led to crime, then on the same theory how in this broad land of ours could it be consistent and in true accord to American standards and ideals to legislate against the origin of other crimes? Here we are in the land of plenty of everything, but without a market except a market for crime—with manufacturers of ammunition, explosives, knives, automobiles, gasoline, tools, and innumerable other contrivances—and how we can stand here and assume and say that we have a right to stop the manufacture thereof, and who will deny that these articles so manufactured and sold do contribute to crime? Perhaps this appears to be an absurd comparison, but I hold that the establishment of the eighteenth amendment is a bad precedent, and the quicker we get rid of it the better off we will be. Mr. Speaker, we should let moral matters beyond the point of crime in the hands of religion and the individual, and enforcement of such matters as the liquor question up to the local communities or States.

Mr. CASTELLOW. Mr. Speaker, much has been said upon the floor of the House respecting the obligation imposed upon its Members by the Constitution of the United States; also as to the duty of those Members who accepted the principles of the Democratic platform during the recent campaign. Though mindful of the obligations imposed by each respectively, I have experienced no difficulty in determining what I conceive to be my duty in the present situation, and that without regard to personal views on the question of prohibition. The Constitution prohibits the manufacture or sale of intoxicating beverages and the present platform of our party commits us only "to legalize the manufacture and sale of beer and other beverages of such alcoholic content as is permissible under the Constitution." In the light of my experience as prosecuting attorney in my judicial circuit for practically 20 years, I am inclined to the opinion that a beverage containing 4 per cent alcohol by volume is intoxicating. Therefore, entertaining as I do this view upon the question, no course remains to me but to oppose the bill as submitted.

Mr. LUDLOW. Mr. Speaker, it is a matter of extreme regret to me that on this question of beer by statute my convictions are at variance with the convictions of many dear friends for whose honesty and sincerity of purpose I have as high respect as I have for my own, but I have given to the subject a great deal of study and thought, and I can only vote and act as my judgment and conscience dictate.

There is but one way the Constitution of the United States can be lawfully amended, and that is by the procedure outlined in the Constitution itself, which is by resubmission and ratification by three-fourths of the States. It can not be amended by merely passing a bill through Congress. To undertake to annul the constitutional provision against the manufacture and sale of intoxicating liquors by enacting a statute which purports to legalize the sale of beer is a proceeding so dangerous to American institutions, so fraught with evil possibilities that I believe we should take time to stop and thoroughly consider the question.

When I held up my right hand as the Representative elect of the Indianapolis district, I took the following oath:

> I do solemnly swear that I will support and defend the Constitution of the United States against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I will take this obligation freely, without any mental reservation or purposes of evasion, and that I will well and faithfully discharge the duties of the office on which I am about to enter. So help me God.

That oath means something. It is a solemn compact with the Nation, binding me to be true to the Constitution, which is the American citizen's only guaranty of security and freedom. I would not violate my oath of office for anything in the world. If I did so, I would consider myself untrue to my constituents, who have honored me with three elections to the Congress, and false to the Nation as a whole, for the Constitution I am sworn to support is the sheet anchor and safeguard of all our 120,000,000 people. I can not vote to nullify the Constitution I am sworn to defend.

It seems to me that those who feel tempted to support the plan of bringing back beer and wine by the quick and direct method of passing bills instead of awaiting the orderly processes of a constitutional amendment would do well to pause before they approve such a far-reaching precedent. If we are to change the Constitution merely by passing a beer bill through Congress by a majority vote, what is to hinder a bare majority in Congress from doing the same thing again and again, times without number? That would make the Constitution a mere scrap of paper.

To illustrate what might happen, the officials in charge of the Government Secret Services tell me communism is spreading in this country much more rapidly than people in general are aware. Suppose that by some turn of fate which we can hardly imagine but which may be possible the communists should come into temporary control of the national lawmaking body. They might decide to wipe out the entire Constitution by enacting statutes; and in reply to those who would protest such revolutionary proceedings, they could well say: "Back in December, 1932, Congress annulled part of the Constitution by passing a beer bill. We will now annull the remainder of it."

Or suppose a Congress should come into existence prejudiced against the colored race and it should undertake to annul the constitutional inhibition against slavery and in-

voluntary servitude. It would find here a convenient precedent. Or suppose in the years to come there should be a Congress prejudiced against women in politics. Then the nineteenth amendment in its turn might be annulled or emasculated by statute.

The evidence brought out before the Ways and Means Committee when this bill was being considered shows conclusively that beer of 3.2 alcoholic content or 4 per cent by volume is intoxicating in fact. The majority of the committee admits this when it says that it "would require considerable effort on the part of an average person to drink enough of it to become drunk." The Democratic national platform declared only for beer that is permissible under the Constitution. This bill goes far beyond that.

I asked Surg. Gen. Hugh S. Cumming, the great doctor at the head of the United States Public Health Service, last summer to advise me whether 2.75 per cent beer is intoxicating and he replied:

It is one of those questions which can not be answered truthfully and comprehensively with either a positive "yes" or a negative "no."

If 2.75 per cent beer is intoxicating to some persons under some circumstances, as the head of the United States Public Health Service agrees, then a liquor that is 4 per cent alcoholic must be more generally intoxicating. I believe it is intoxicating in fact and the same type of beer that was quite generally manufactured and sold prior to prohibition.

Any beer bill that proposes to bring back intoxicating beer is an annulment of the Constitution; and if it does not provide for intoxicating beer, it is a stupendous fraud against the millions who are expecting real beer and who will be grievously disappointed with anything less. The pending bill is objectionable for another reason—in that it permits the return of the saloons. From any standpoint, therefore, I believe it would be unwise to pass a beer bill in advance of resubmission of the eighteenth amendment to the States. I do not believe that any person, whether he be wet or dry, wants to strike a blow at the Constitution of his country. I have but one desire and that is to do what is right; and I sincerely believe that in voting against this bill, I am serving the best interests of all of the people of the country and of posterity.

Mr. GARBER. Mr. Speaker, Members of the House, it is insisted that the repeal of the eighteenth amendment and the consideration of H. R. 13742, legalizing the manufacture and sale of beer to the exclusion of all other legislation, are justified upon the ground that it is necessary to fulfill party pledges and carry out the mandate of the people as expressed in the recent election.

DEMOCRATIC PARTY PLEDGED TO REPEAL OF THE EIGHTEENTH AMENDMENT AND MODIFICATION OF THE VOLSTEAD ACT

The platform of the Democratic Party pledges its membership—

First. To the repeal of the eighteenth amendment, with protection to the dry States and a prohibition against the return of the open saloon:

We advocate the repeal of the eighteenth amendment. To effect such repeal we demand that the Congress immediately propose a constitutional amendment to truly representative conventions in the States called to act solely on that proposal; we urge the enactment of such measures by the several States as will actually promote temperance, effectively prevent the return of the saloon, and bring the liquor traffic into the open under complete supervision and control by the States.

We demand that the Federal Government effectively exercise its power to enable the States to protect themselves against importation of intoxicating liquors in violation of their laws.

Second. It also pledges its membership to a modification of the Volstead Act within the prohibition of the Constitution:

Pending repeal, we favor immediate modification of the Volstead Act to legalize the manufacture and sale of beer and other beverages of such alcoholic content as is permissible under the Constitution and to provide therefrom a proper and needed revenue.

THE REPUBLICAN PARTY PLEDGED TO RESUBMISSION OF THE QUESTION

The Republican platform pledges a resubmission of the question of the repeal of the eighteenth amendment with a retention of power in Congress to protect the dry States and prohibit the return of the open saloon.

THE EIGHTEENTH AMENDMENT

The eighteenth amendment provides:

SECTION 1. After one year from the ratification of this article the manufacture, sale or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all Territories subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

The bill under consideration proposes to legalize the manufacture and sale of fermented liquors with an alcoholic content of 3.2 per cent by weight or 4 per cent by volume. If such alcoholic content is not intoxicating, then it is permissible under the eighteenth amendment and its manufacture and sale can be legally authorized. On the other hand, if it is intoxicating, it comes within the prohibition of the eighteenth amendment, would be in violation of the Constitution; and such fermented liquors, with such alcoholic content, can not be authorized by Congress. So long as the eighteenth amendment is in the Constitution, it is our sworn duty, and that of the private citizen as well, to support and defend it. Ours is a constitution of the people. They alone can amend, modify, or repeal. Thus far in our history, they have adopted 19 amendments, but in no case have they ever modified or repealed one.

In its convention at Chicago the Republican Party refused to adopt a plank pledging its membership to any modification of the Volstead Act by an increase in the alcoholic content. It took the safe ground that any such increase would be open to serious criticism on constitutional grounds and so serve to disturb and unsettle conditions generally as to be entirely unjustified; that the only safe procedure to take was the submission of the eighteenth amendment giving the people an opportunity to say whether or not they desired such increase in alcoholic content to be made. It is the declared policy, then, of the Republican Party to deal with the problem by submission of the question of increased alcoholic content direct to the people themselves in the resubmission of the eighteenth amendment; and while the Democratic platform declares in favor of modification of the Volstead Act, it is to be only to the extent "permissible under the Constitution," and no Democrat, abiding by the platform of his party, is under any obligation to support this bill if he believes that the alcoholic content to be authorized would make the beverage intoxicating and therefore in violation of the Constitution.

IS THE BILL UNCONSTITUTIONAL?

Upon the question as to whether or not such alcoholic content is intoxicating, there is some conflicting evidence in the record of the hearings; but, taken as a whole, it clearly shows by a preponderance and the greater weight of the evidence, that such content comes within the prohibition of the eighteenth amendment and is intoxicating. Mr. Adolph Busch claims that pre-war beer contained 4.2 per cent alcohol by volume, yet it is generally conceded by the brewers that 4 per cent by volume is equivalent to the alcoholic content of pre-war beer—that is the average beer consumed by the public generally. There is not any question but that such beer was recognized and conceded by the consumers to be intoxicating. It was so conceded by 17 of the States with prohibitory laws forbidding all malt liquor. It was so recognized by the courts generally to the extent that judicial notice was taken of such as an accepted fact. It was so recognized by the brewers' organizations supporting this bill and by the proponents of the bill, in that they provide for the prohibition of the transportation of such proposed 4 per cent beer into the dry States. If it is not intoxicating as they contend, why prohibit its transportation? Such prohibition in this bill is a confession that the alcoholic content authorized is intoxicating or that it may be, that there is at least a sufficient seriousness of doubt as to necessitate the prohibition of its transportation into the dry States. If it is not intoxicating, why not authorize its sale by the trade generally at restaurants, hotels, drug stores, and soda fountains in all the States, wet or

dry? We are firmly convinced by the record of the hearings on this bill that 4 per cent beer is intoxicating, and therefore its legalization for manufacture and sale would be in violation of the Constitution, of our sworn duty to protect and defend it, and therefore we can not support the bill.

THE PROHIBITION OF TRANSPORTATION WILL NOT PROHIBIT

The prohibition in this bill would not in fact prohibit the transportation of beer, ale, and porter in the dry States. Modern transportation makes this impracticable. Automobiles and trucks, crossing the unguarded borders at any place and time, day or night, loaded with intoxicating, fermented liquors, authorized in this bill, would nullify the law and make enforcement impossible.

IT WOULD NULLIFY THE CONSTITUTION AND LAWS OF THE STATE OF OKLAHOMA

In my State a prohibitory provision was incorporated in the constitution at the time of the admission of the State into the Union. Supplemental enforcement laws have been enacted. The saloons were abolished, and a generation has grown up without forming the appetite for intoxicating liquors.

True, there are violations of law. But of what law are there not violations? We have made the robbing of a bank a felony, with the death penalty, and yet there are bank robberies. There is no criminal law upon the statute books but what is violated, and yet their repeal is not advocated. Courts have been established and are maintained for the purpose of law enforcement.

On the whole, the prohibition laws of the State have been fairly well enforced. Crime has decreased, and the wholesome, beneficial effect is seen everywhere and generally recognized. But once legalize intoxicating liquors, and it will render the dry States helpless, their laws ineffective and unenforceable. It will practically compel repeal and resort to attempted regulation and control under a license or other system, which, of course, means the return of the open saloon.

THE DEMOCRATIC PARTY HAS SAID, IN EFFECT, "BEER IS MORE IMPORTANT THAN BREAD"

To authorize the manufacture and sale of beer will not relieve this depression. On the first day of this session, namely, on the 5th day of December, 1932, acting under directions of his party, the Speaker, under the suspension of rules, which is only resorted to in rare cases of emergency, attempted to jam through the House a proposal to repeal the eighteenth amendment. Such proposal was unaccompanied by any protection to the dry States or any prohibition against the return of the open saloon. But 40 minutes was granted for debate, and the privilege of amendment was denied. The House was fully justified in the defeat of such attempted spectacular, arbitrary exercise of power, claimed to be justified upon the plea that it was necessary in order to carry out the mandate of the people. Could not such an important proposal await the safeguards of orderly procedure? Such attempt smacks too much of the rush and bluff of the brewing interests of the country, which have ever become bolder and bolder in their demands as the time for action approaches.

THE PERSISTENT, INSIDIOUS CAMPAIGN OF THE BREWING INTERESTS

Such methods characterize the insidious, selfish, persistent campaign of the brewing and liquor interests against prohibition. And from the first day of this session until the present day, the 20th day of December, 1932, when we are called upon to vote to legalize beer, the program of this House has been made to conform to the program of the breweries to repeal the eighteenth amendment and to legalize beer at the earliest moment. By the adoption of such program the Democratic Party has declared to the country that beer is more important than bread to the hungry and unemployed millions. At a time when 10,000,000 laboring men are out of employment through no fault of their own, and our charitable organizations, institutions, and agencies throughout every section of the country are taxed beyond their limit to supply clothing and food for the needy and the hungry, it would seem that there were more important considerations for this body than the unauthorized legalization of beer demanded by the brewing interests of the country. It is an example of Nero fiddling while Rome burned.

NO JUSTIFICATION FOR THE MEASURE AS A REVENUE BILL

Of course, they seek to justify such haste upon the ground that it is a tax bill. The revenues to be derived from this bill, if it should be enacted, would be an infinitesimal amount compared to the increased expenditures and the damages which would naturally ensue. You can not deceive the public in your attempt to justify your precipitation of the brewery program into this session upon the ground that it is a bill for revenue. That is one of the least considerations. The primary, major consideration of this bill is beer! The evidence in the hearings clearly disproves the extravagant, preelection claims for revenue. Instead of a billion dollars or $750,000,000 or $400,000,000 annual revenue as claimed by the leading wets, it is now conceded that $75,000,000 would be the limit of revenue during the first year, with a possible increase to $125,000,000 or $150,000,000 annually as the appetites of the young men and women are developed and consumption increased. With an annual deficit of a billion dollars, what become of these clap-trap, demagogic, preelection claims that beer would balance the Budget? Beer would unbalance! Beer would contribute to the unbalancing of the budget of every consuming family of the country. It would do it stealthily, subtly, by exacting a toll of 5 cents at a time, gradually absorbing not only the loose change but a substantial portion of the earnings of the consumer.

THE BILL WOULD SACRIFICE THE HOME AND FAMILY FOR THE LIQUOR INTERESTS

It is now claimed for this bill that it would produce $300,000,000 revenue a year. But what would this mean? With a tax of $5 per barrel on beer, $300,000,000 in revenue would require the consumption of 60,000,000 barrels of beer; and if each gallon of the 31½ gallons in a barrel provided 12 drinks, 60,000,000 barrels would furnish 22,680,000,000 drinks! At 10 cents a drink, the cost of such consumption annually to the people would be $2,268,000,000! And who is to drink these 60,000,000 barrels of beer annually and pay this $2,268,000,000? "Why," they say, "the poor workingmen of the country! Beer is a poor man's drink." At a time when as never before every penny is needed for the necessities of life—food, education, clothing—we are urged to legalize beer, a temptation to extravagant waste to the extent of $2,268,000,000 annually, at the behests and commands of the greed and avarice of the beer and liquor interests; and, in the name of "revenue," to enact a measure which would give to the Treasury approximately one-sixth of the proceeds, the remainder to the brewers, and increased want and destitution to the families of our poor workingmen! But is not this claim typical of the brass rail of the preprohibition-day saloon? It is typically representative of the liquor philosophy of economy in the home.

THE "POOR WORKINGMAN" WILL PAY THE TAX

If it is the "poor man's drink" and necessary, why not give it to him without the tax of $5 per barrel? Why oppress him with further taxation at a time when so many are out of employment? Why add to his financial burdens with increased costs? The brewer will not pay the tax. The wholesaler will not pay the tax. The saloon keeper will not pay the tax. It will be "the poor workingman," for whom the beer interests have so much solicitude, and it is right that they should be solicitous of the workingman—"the poor workingman"—for whom they will make so many sacrifices. It was the "poor workingmen" in prosperous days who contributed the billions of dollars representing the plants and vast fortunes of the big brewery interests of the country. And this bill will give them a complete monopoly, a monopoly second only to the importers of oil for its effectiveness and power to levy upon consumption. For no one not a licensed brewer will be permitted to brew. The "poor workingman" will no longer be permitted to brew for home

use. He will be prosecuted to the limit of the law, fined, jailed—and the brewers will see to that, you may rest assured. They will see to the enforcement of the law against any competition in their business, even to the imprisonment of the "poor workingman," for they consider they are entitled to a daily contribution of his earnings.

LEGALIZATION OF INTOXICATING LIQUORS WILL AGGRAVATE OUR DIFFICULTIES

This bill, if enacted, will exact tremendous sacrifice from the homes and families of our Nation. Instead of decreasing, it will increase the number of bootleggers, speakeasies, and law violations, and add to our court expenses, industrial inefficiency and waste. It is proposed as a Christmas gift to the people, but if enacted, will be a veritable Frankenstein instead! Where prohibition administration has slain its hundreds, intoxicating, fermented liquors as herein authorized, uncontrolled and unlimited, will slay its thousands. Instead of a merry Christmas, it will be "the morning after" and a grievous disappointment! It will not cure the depression. It will not restore prosperity. It will not restore law and order.

THE CONSIDERATION OF THIS MEASURE MAY AROUSE DEFENSE OF THE EIGHTEENTH AMENDMENT

The enactment of this bill and the uncontrolled sale of the fermented liquors which it authorizes will enable the people to contrast conditions "before and after" and stir them to the defense of the eighteenth amendment, which the Democratic Party is pledged to repeal. Facing imminent danger, they will organize and fight for the ground gained as they never have done before. The 50 years' work of the Christian ministry and Christian people in building up a moral fabric as expressed in the eighteenth amendment will not be permitted to be junked overnight at the behests of those who are out solely for the money there is in it for them.

WHAT CAN WE EXPECT FROM REPEAL OR MODIFICATION?

While this bill may pass the House and the Senate, it will be vetoed by the President. It will never become a law. Yet we are not unmindful of the new Congress which will be convened in special session after March 4 and of the incoming President. They will authorize resubmission and modify or repeal the Volstead Act. And then the standards will be lowered, and we will again return to pre-war conditions when the monopolistic brewery interests of the country not only controlled, in violation of law, the manufacture and sale of their products but controlled the politics of the country by blackmail, boycotting, bribery. Their methods were fully investigated by a subcommittee in the Senate. Senate Document No. 61, Sixty-sixth Congress, first session, embodies the following summary of its report regarding the liquor traffic:

With regard to the conduct and activities of the brewing and liquor interests, the committee is of the opinion that the record clearly establishes the following facts:

(a) That they have furnished large sums of money for the purpose of secretly controlling newspapers and periodicals.

(b) That they have undertaken to and have frequently succeeded in controlling primaries, elections, and political organizations.

(c) That they have contributed enormous sums of money to political campaigns in violation of the Federal statutes and the statutes of the several States.

(d) That they have exacted pledges from candidates for public office prior to the election.

(e) That for the purpose of influencing public opinion they have attempted and partly succeeded in subsidizing the public press.

(f) That to suppress and coerce persons hostile to and to compel support for them they have resorted to an extensive system of boycotting unfriendly American manufacturing and mercantile concerns.

(g) That they have created their own political organizations in many States and in smaller political units for the purpose of carrying into effect their own political will and have financed the same with large contributions and assessments.

(h) That, with a view of using it for their own political purposes, they contributed large sums of money to the German-American Alliance, many of the membership of which were disloyal and unpatriotic.

(i) That they organized clubs, leagues, and corporations of various kinds for the purpose of secretly carrying on their political activities without having their interest known to the public.

(j) That they improperly treated the funds expended for political purposes as a proper expenditure of their business and consequently failed to return the same for taxation under the revenue laws of the United States.

(k) That they undertook through a cunningly conceived plan of advertising and subsidation to control and dominate the foreign-language press of the United States.

(l) That they have subsidized authors of recognized standing in literary circles to write articles of their selection for many standard periodicals.

(m) That for many years a working agreement existed between the brewing and distilling interests of the country by the terms of which the brewing interests contributed two-thirds and the distilling interests one-third of the political expenditures made by the joint interests.

THE PEOPLE WILL DECIDE THIS GREAT QUESTION

The proposal to repeal the eighteenth amendment will be submitted to the people. At the ballot box they will decide the question of retention or repeal. It is for them to determine our policy and for all good citizens to abide by the result, whatever it may be—for, after all, under our form of government, the majority rules.

Mr. SCHNEIDER. Mr. Speaker, as one who has been a consistent opponent of prohibition from the very beginning, I shall take pleasure in giving the pending measure my support and in joining with the other Members of this body in taking the first step toward the undoing of the grave wrong that was committed when prohibition was foisted upon our country.

The bill before us proposes, among other things, to legalize the manufacture and sale of beer containing 3.2 per cent alcohol by weight. It comes to the House from the Committee on Ways and Means, and is designated as a revenue-raising measure because it imposes a tax of $5 per barrel, each barrel to contain no more than 31 gallons. The more conservative estimate of the amount of revenue the Federal Government should derive from this tax is $200,000,000.

We are confronted with the necessity of balancing the Budget, and it will take, it now seems, about $1,000,000,000 of additional revenue to do it. If $200,000,000 can be realized from the tax on beer, an appreciable start will have been made toward securing the amount needed for the balancing of the Budget.

Important as I readily concede this revenue to be, I shall vote for this bill not primarily because of the money it will raise. If it did not provide for the raising of a single dollar of revenue, if its only object was to restore to the American people an opportunity to have a palatable glass of beer, and thereby help end the many evils that have crept into our national life as a result of the prohibition experiment, I should regard the benefits to be gained from the enactment of the measure of sufficient value to give it my wholehearted support.

Personally, I should have preferred, Mr. Speaker, to have had this question decided on its merits, rather than to have it brought before us as a revenue-raising measure. When, in 1918, while the Nation was engrossed in the problems of a world war, the prohibitionists decided to impose their idea on the Nation. They based their appeal on the necessity of conserving grain, which they said was so badly needed for the winning of the war. It did not strike me then, although I was not a Member of the House at the time, as a fair method of securing the enactment of prohibition legislation.

Now that the tide has turned and it is clear to all except the blindest of fanatics that bone-dry prohibition is neither desirable, even if it were possible, nor possible, even if it were desirable, those of us who have championed the wet cause against tremendous odds when so many who are with us to-day were sitting on the side lines would prefer to vote our opposition to prohibition, regardless of whether it will result in any revenue being raised.

The question has arisen here, it was raised during the hearings held by the Committee on Ways and Means, and

it will be raised in the courts when, and if, the constitutionality of the act is tested in the courts, whether we have the power, under the Federal Constitution, to enact a measure providing for beer containing 3.2 per cent alcohol by weight, which beer the drys claim is intoxicating.

The situation, as I see it, is this:

The eighteenth amendment, more commonly known as the prohibition amendment, merely provides as follows:

> The manufacture, sale, or transportation of intoxicating liquors within, the importation thereof into, or the exportation thereof from the United States and all Territories subject to the jurisdiction thereof for beverage purposes is hereby prohibited.

Section 2 of the amendment confers upon Congress and the several States the power to enforce this amendment by appropriate legislation.

It should be remembered that the eighteenth amendment is not self-enforcing, carries no penalties, and is a dead letter without legislation providing for its enforcement and penalties for its violation. If Congress had not passed such legislation, or if Congress should repeal such legislation completely, as it has a perfect right to do, no prosecutions could be instituted and penalties imposed under the eighteenth amendment. Without enabling legislation it has no teeth.

It was to provide such teeth that the Volstead Act, which derives its name from the author of the act, was passed by the Sixty-fifth Congress in 1918.

Since the amendment merely prohibits the manufacture and sale of intoxicating liquors, but does not define what constitutes an intoxicating liquor, the Volstead Act attempts to provide such a definition. The Volstead Act declares that to be nonintoxicating a beverage is not to contain more than one-half of 1 per cent of alcohol. Anything above that, according to the Volstead Act, would be intoxicating.

That was the opinion of the Sixty-fifth Congress, which was, of course, a dry Congress. Its definition as to what was intoxicating and what was nonintoxicating did not bind, could not bind, the next Congress, or any subsequent Congress. It certainly has no effect on the present Congress, which can decide for itself what liquors shall be deemed intoxicating.

The question which has been discussed before the committee and during this debate and which may affect the constitutionality of the act if it should reach the courts, is whether Congress—any Congress—can legalize the manufacture and sale of a beverage which is in fact intoxicating while the constitutional amendment prohibiting the manufacture and sale of intoxicating liquor for beverage purposes remains unrepealed. In other words, can we by law legalize what the Constitution prohibits?

I raise, or consider, this question, not because I am opposed to intoxicating liquors as such, and certainly not because I believe that they can be or should be outlawed by legislation. I raise it because I must be satisfied in my own mind that what I am doing, when I vote for this measure, is constitutional. Although not a lawyer, I have studied carefully the expert opinions of constitutional lawyers and am convinced that under the Constitution we can enact this bill.

I am led to that conclusion by the following reasons:

In the first place, the testimony of authorities on the subject convinces me that beer containing 3.2 per cent alcohol by weight is not intoxicating in fact. In the second place, if there is, as there undoubtedly is, considerable difference of opinion as to whether such beer is intoxicating, the Supreme Court of the United States, in accordance with the principles of constitutional construction which it has laid down in previous decisions, will be obliged to give great weight to the opinion of Congress as to what is intoxicating.

I do not propose, at this time, to take up at length or in detail the testimony of the large number of recognized authorities on whose views I rely in my belief that beer containing 3.2 per cent by weight is nonintoxicating. I have done so, in and out of this House, on previous occasions. Just a few observations will suffice.

Prof. Yandell Henderson, of Yale University, considered by many the greatest authority on poisons in the United States, testifying before the Committee on Ways and Means, pointed out that whether a beverage is intoxicating or not depends on a variety of conditions, such as the dilution of the intoxicant in the air or in water, the duration of time that a man is exposed to it and absorbs it, and the condition of the man, whether at rest, or working, fasting, or after a meal.

He testified that 4 per cent beer should not be regarded and should not be defined by law as intoxicating, if beer is drunk as beer is generally drunk. But if, on the contrary, a man rising in the morning were to drink a quart or 2 quarts of 4 per cent beer before breakfast his faculties would be impaired. On the other hand, the same man, tired at the end of the day's work, drink the same amount of beer with and after his dinner would not be appreciably impaired by reason of it. Instead he will enjoy a peace of mind which will contribute to a good night's rest and which in this respect is helpful for the next day's work.

A glass of beer is less intoxicating, under normal conditions, than a cigar. And it has been said on good authority that a glass of buttermilk may frequently contain 4 per cent alcohol. Beer of 4 per cent is not appreciably more intoxicating than an equal volume of coffee.

Dr. Alfred Stengel, another noted authority, gave testimony to the same effect. And there is a mass of other evidence pointing to the same conclusion.

We have as much, or more, justification for defining as nonintoxicating beverages containing 3.2 per cent alcohol by weight as the Sixty-fifth Congress had for declaring anything containing more than one-half of 1 per cent to be intoxicating.

I have said that if the Supreme Court of the United States will follow the principles of constitutional construction laid down in the past, this measure will be sustained. Those principles were summed up by Mr. Justice Sutherland in the case of Atkins against Children's Hospital to be as follows:

> The judicial duty to pass on the constitutionality of an act of Congress is one of great gravity and delicacy. The statute here in question has successfully borne the scrutiny of the legislative branch of the Government, which by enacting it has determined its validity, and that determination must be given great weight. This court, by an unbroken line of decisions from Chief Justice Marshall to the present day, has steadily adhered to the rule that every possible presumption is in favor of the validity of an act of Congress until overcome beyond rational doubt * * *.

When it is remembered, in addition to the foregoing, that the question as to whether the eighteenth amendment is to be enforced or not rests exclusively with Congress, which can repeal in its entirety the prohibition enforcement laws without having its action reviewed, it is fair to conclude that this act, which will determine to what extent the amendment can be enforced, is constitutional.

The other important provision involved in this measure is the tax it imposes of $5 per barrel. In 1914, when the Federal tax on beer was $1 per barrel, the revenue derived by the Federal Government from that source was $67,081,000. The largest amount of revenue we ever derived from the sale of beer was in 1918, when we collected $120,285,000, but in that year, and for the major part of that year, the tax was only $3 per barrel. For the remainder of that year it was increased until it reached $6 per barrel.

Conservative estimates, I have already said, place the Federal revenues to be obtained from a tax of $5 per barrel at $200,000,000 a year. That would presuppose a sale of 40,000,000 barrels, which would be considerably less than was sold prior to prohibition. It makes allowance for the changed economic conditions and the reduced purchasing power of the people. On the other hand, it is likely that many who are now resorting to strong liquor will come back to the use of beer. That was the tendency in the last few years before prohibition, and might have continued had not prohibition driven people to hard liquors because they were easier to obtain.

There has been some discussion about increasing the tax to $6 per barrel, and more. I hope it will not be acted on

favorably. Under the $5 tax the brewers assure us that they will be able to sell beer so that it will retail for 5 cents a glass, provided the States do not add prohibitive taxes. We shall get the largest revenue by encouraging the largest sale to the consuming public. Moreover, burdensome taxes increasing the cost to the public will render it more difficult to compete with bootleg beer, which will pay no tax and therefore have a certain advantage.

It would be unsound public policy, in my judgment, to first concede the right of the people to having a palatable glass of beer, and then impose such taxes as would make it inaccessible to the people in whose interest I am so anxious that beer should be restored.

This bill provides an occupation tax upon brewers of $1,000 a year. Whatever merit there may be to having such a tax included, I am opposed to a tax which is the same in the case of the brewer who producers 100,000 barrels or more and the brewer who has a small plant and produces 1,000 barrels. The tax enters into the cost of production, and the brewer producing 1,000 barrels will have an additional cost of $1 per barrel on account of this occupation tax, while the brewer producing 100,000 barrels will have a charge of only 1 cent per barrel.

The small brewer, like the small business man in other lines, has a right to exist. The small brewer, like the small business man, enters the economic struggle in competition with the big fellows severely handicapped by reason of the economies that large-scale production makes possible. It is not for us to add to the handicaps which the small fellow already suffers in competing with the larger ones.

The majority leader, in defending this flat tax of $1,000, cited as an argument that the tax would be in the nature of a guaranty that beer will be manufactured by those larger concerns which will be more disposed to observe the law. I do not think that lawbreaking is confined to the smaller fellows in business, although they are more likely to be caught and convicted than the larger ones. What is likely to happen under this tax is that those who want to violate the law will not be deterred by the tax of $1,000, while it will impose a hardship on the smaller brewer who is honest and law-abiding and who has the same right to live and compete as the large brewer.

In place of the occupation tax of $1,000 there should be a flat minimum tax of a much smaller amount, rising after that in accordance with the production of the brewery.

The benefits of this measure will extend in various directions. The brewers estimate that 300,000 people will be reemployed directly as soon as the industry gets into full swing. Others who have testified before the committee and who are identified with the industries that will be affected by the rehabilitation of the brewery industry predict that at least three times that number will be put to work in industries that furnish the products the brewers and others require. There will be a demand for bottles, hoops, barrels, cases, glassware, refrigerating equipment, and so forth.

It will take an expenditure of approximately $360,000,000 to provide the equipment, machinery, new buildings, and refrigeration the breweries will require, and that expenditure will be incurred within the next few years. That will be of some immediate value and will create some additional employment.

Agriculture should be one of the principal beneficiaries of this legislation. The evidence shows that a very considerable amount of malt, rice, corn and corn products, hops, sugar and sirup, and other grains will be used in the production of beer. The sale of all of these products began to decline with the advent of prohibition. If the production of beer should go to 40,000,000 barrels annually, as is expected, a vast market for these products will result, and in addition agriculture will share in the general benefits that accrue from an improvement in industrial conditions.

Above and beyond these gains, any one of which would be of sufficient importance to me and justify my support of the present bill, there are gains that can not be calculated in dollars and cents, that are even more important than any pecuniary advantages we could enumerate. We shall have taken a substantial step in the direction of a healthier social system. The racketeer and the bootlegger, the criminal and the politician who draw their power and income from the lower elements in our national life will have been dealt a body blow. We shall return to the days when respect for law was more general, and fabulous fortunes based on ill-gotten gains will be a thing of the past.

I am confident that all of this will come to pass, even though I know that neither the legalization of beer nor even the repeal of the eighteenth amendment will solve our economic ills. We shall not be able to drink ourselves into prosperity. We shall still have to raise a tremendous amount of money to balance our Federal Budget, and we shall have to do it without imposing additional hardships on those who already bear much of the national burden, the farmers and industrial workers. There will still be many millions of workers unemployed, many of them facing starvation in a land of plenty, hungry because there is a superabundance of the things that could make them comfortable and happy. In hundreds of thousands of farmhouses throughout the length and breadth of this Nation the savings of a lifetime will continue to be in danger of being lost by foreclosure proceedings unless adequate relief through legislation can be provided.

These problems are fundamental. They touch the roots of our political and economic structure. The application of more basic remedies will be needed to halt the concentration of wealth into the hands of a few and to end the many evils caused by the granting of special privileges.

In the meantime, this measure offers a temporary relief and promises to bring about a partial improvement in economic conditions. I hope that it will receive the approval of the Senate, and that the reports emanating from the White House threatening to veto are without foundation. The mandate of the people, expressed so unmistakably in the recent elections, ought to be respected as promptly and as effectively as possible.

As one who has been identified with the so-called wet cause from the day I began my service in this body, I take pride in being able to cast my vote for a measure which I hope marks the beginning of the end of the prohibition era. It was a long, uphill struggle, against tremendous odds that at times made some of us despair. The bills other Members and I introduced in each Congress during the 10 years I have been here, providing for modification and repeal were forever buried in the committees to which they were referred. It was impossible to even get a hearing on any of them, much less an opportunity to vote on them in this body. But the tide of opposition to prohibition continued to rise, gaining momentum as the people came to know prohibition by its fruits. From the handful that we were at the beginning our strength in this House increased year by year until in the first session of this Congress we had enough votes to compel a change in the rules, so that the bill providing for modification could at least be brought to a vote. Whatever the ultimate outcome—and there can be no doubt as to what it will be—the vote by which this bill will be approved by the House marks the consummation of a long and bitter fight, in which it has been a pleasure to me to take part.

Mr. WELCH. Mr. Speaker and gentlemen of the House, I am in favor of this bill, the purpose of which is to legalize 3.02 per cent beer by weight. The legalization of beer will render to the people of this country a threefold benefit.

First. The Government will receive a much needed revenue of approximately one-quarter of a billion dollars a year.

Second. The farmer will be benefited by the increased use of corn, hops, rice, sugar, barley, wheat, and other similar ingredients. In support of this statement I cite Treasury Department statistics issued in December, 1931, as follows:

Materials used in the production of fermented liquor, fiscal years 1915 to 1920, inclusive

[Statement in pounds]

Year	Malt	Rice	Corn and corn products	Hops	Sugar and sirup	Other grains [1]	Other materials [2]
1915	2,141,723,104	167,750,177	604,880,901	38,839,294	109,630,425	145,697,970	68,880,530
1916	1,961,254,980	141,249,292	650,745,703	37,451,610	77,038,573	113,712,782	24,756,974
1917	2,770,964,606	125,632,269	666,401,619	41,958,753	115,838,410	204,089,800	17,573,893
1918	1,227,301,264	78,942,550	459,842,338	33,481,415	64,930,019	68,693,042	5,491,879
1919	854,329,231	17,356,242	112,969,071	13,924,650	54,502,845	25,780,394	4,803,123
1920	292,423,712	9,357,668	48,551,910	6,440,894	23,354,072	483,477	4,822,391

[1] "Other grains" include grits, wheat, bran, and barley.

[2] "Other materials" include acids, extracts, salt, yeast, etc.

Grain and other materials used in the production of cereal beverages containing less than one-half of 1 per cent of alcohol by volume, fiscal years 1921 to 1931, inclusive

[Statement in pounds]

Year	Malt	Rice	Corn and corn products	Hops and hop extract [1]	Sugars	Sirups	Other grains [2]	Other materials [3]
1921	248,772,628		31,388,698	5,988,982	28,468,242	[4]	17,336,423	4,530,058
1922	180,670,279		21,591,393	4,452,676	20,425,365	[4]	11,239,148	4,440,755
1923	184,616,802	7,279,924	29,146,936	4,555,759	24,999,096	[4]	1,114,745	394,034
1924	162,214,947	4,781,337	29,259,844	3,814,858	18,945,595	[4]	352,778	4,547,962
1925	150,007,867	12,435,525	16,552,276	3,255,945	20,276,583	[4]	408,740	4,215,653
1926	177,543,630	11,298,874	17,591,648	3,425,566	22,267,804	[4]	1,085,150	5,034,817
1927	164,601,529	4,704,488	11,466,590	3,148,527	21,328,863	[4]	5,968,385	6,636,427
1928	150,382,852	7,417,088	5,280,454	3,070,566	19,050,439	[4]	12,286,872	7,077,543
1929	136,634,312	5,463,750	6,629,193	2,734,606	8,509,350	[4]	11,288,710	6,388,948
1930	133,061,550	5,278,630	12,711,214	2,626,648	17,396,405	[4]	4,817,793	5,452,500
1931	110,574,529	4,522,060	9,494,297	2,196,506	6,795,113	18,640,855	----------	161,819

[1] "Hop extract" included in 1931 figures only.

[2] "Other grains" include grits, wheat, bran, and barley.

[3] "Other materials" include acids, concentrates, extracts, salt, yeast, honey, etc.

[4] Included in "Sugars."

Third. Its effect on employment; Matthew Woll, first vice president of the American Federation of Labor, representing labor's national committee for modification of the Volstead Act, stated at the hearings before the Committee on Ways and Means that the legalization of beer would give employment to approximately 1,000,000 men not only in the brewing industry but in allied and kindred industries.

In 1919 there were over 1,000,000 workers engaged in the brewing and allied industries, which supplied machinery, material, and supplies to the brewing industry, embracing workers in the following trades and callings: Coopers, hoop makers, box makers, lumberjacks, carton workers, glass-bottle blowers, plumbers, plumbers' helpers, steam fitters, steam fitters' helpers, electrical workers, machinists, molders, patternmakers, boilermakers, boilermakers' helpers, elevator constructors, automobile mechanics, carpenters, painters, bricklayers, ironmakers, steel workers, cement finishers, engineers, firemen, oilers, coal passers, laborers, brewers, bottlers, teamsters, printers, pressmen, photo-engravers, lithographers, bookkeepers, stenographers, clerks, salesmen, and so forth. In addition to these there were the thousands of workers engaged in coal mining, in the transportation industry, and agricultural workers.

This bill is limited to beer only; it should, as did the original bill sponsored by the chairman of the Committee on Ways and Means, provide for nonintoxicating liquors made by the natural fermentation of fruit juices and cider without the addition of distilled spirits, with a tax of 20 cents per gallon.

Prohibition has paralyzed the grape industry of the United States, and the wine industry since the enactment of the Volstead law. It has reduced by at least 90 per cent the production of wines for Government tax purposes. It has increased illegitimately the consumption of wine for 13 years last past to an approximate figure of 100,000,000 gallons to 125,000,000 gallons, with no tax derived from it by the Government.

Mr. Speaker, the fight for modification of the Volstead Act has been based on the return to the people of those two wholesome and nutritious beverages, light wines and beer, and not the distinction that is made in this bill, which excludes healthful beverages of a vinous nature.

May I say of light wines that they were never barroom beverages; they were strictly a table beverage drunk with meals. Whatever may be said of the evils of the licensed saloon before prohibition, it has yet to be charged that light wines contributed in any degree to the evils referred to.

May I call the attention of my Democratic friends to the repeal and modification plank in their party platform as adopted by the Democratic National Convention held in Chicago in 1932, which reads in part as follows:

> Pending repeal, we favor immediate modification of the Volstead Act to legalize the manufacture and sale of beer and other beverages of such alcoholic content as is permissible under the Constitution and to provide therefrom a proper and needed revenue.

The interpretation of which can not be construed as meaning anything less than light wines as well as beer. Although a Republican, I am absolutely in favor of this plank as contained in the Democratic platform.

Mr. Speaker, the people of this country have issued a mandate as to those two wholesome, nonintoxicating beverages, and we, their representatives, should do our part to return them to the people.

FEDERAL BOARD FOR VOCATIONAL EDUCATION

Mr. CONNERY. Mr. Speaker, I ask unanimous consent to address the House for one-quarter of a minute.

The SPEAKER. Is there objection?

There was no objection.

Mr. CONNERY. Mr. Speaker, to-day I submitted a resolution to the House asking disapproval of the transfer of the Federal Board for Vocational Education to the Bureau of Education. I wish to state that I put in this resolution at the request of the American Federation of Labor.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1863. An act to authorize and direct the transfer of Widow's Island, Me., by the Secretary of the Navy to the Secretary of Agriculture for administration as a migratory-bird refuge.

ADJOURNMENT

Mr. COLLIER. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to.

Accordingly (at 6 o'clock and 37 minutes p. m.), the House adjourned until to-morrow, Wednesday, December 21, 1932, at 12 o'clock noon.

COMMITTEE HEARINGS

Tentative list of committee hearings scheduled for Wednesday, December 21, 1932, as reported to the floor leader:

SHANNON SPECIAL COMMITTEE

(9.30 a. m.)

Continue hearings on Government competition with private enterprise.

NAVAL AFFAIRS

(10.30 a. m.)

Hearings on House Joint Resolution 500, authorizing the Secretary of the Navy to sell obsolete and surplus clothing for distribution to the needy.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 2 of Rule XXIV, executive communications were taken from the Speaker's table and referred as follows:

827. A communication from the President of the United States, transmitting letter for the consideration of Congress, and without revision, a supplemental estimate of appropriation pertaining to the Architect of the Capitol, for the fiscal year 1933, in the sum of $240,631.23 (H. Doc. No. 513); to the Committee on Appropriations and ordered to be printed.

828. A letter from the Acting Secretary of State, transmitting copy of the circular of the Nobel committee of the Norwegian Parliament, for the information of the House of Representatives; to the Committee on Foreign Affairs.

829. A letter from the Postmaster General, transmitting letter and a schedule of papers and documents which, pursuant to the act of February 16, 1889, are not needed in the transaction of public business and which, in the opinion of this department, have no permanent value; to the Committee on Disposition of Useless Executive Papers.

830. A letter from the Mount Rushmore National Memorial Commission, transmitting letter with the fourth annual report of the Mount Rushmore National Memorial Commission as provided by the act of February 25, 1929 (Public No. 805, 70th Cong.) (H. Doc. No. 514); to the Committee on the Library and ordered to be printed.

831. A letter from the Acting Secretary of Agriculture, transmitting report of the Department of Agriculture for the fiscal year 1932, submitted in accordance with the statutory requirements; to the Committee on Roads.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of Rule XIII,

Mr. SMITH of West Virginia: Committee on Mines and Mining. S. 4791. An act to amend the United States mining laws applicable to the city of Prescott municipal watershed in the Prescott National Forest within the State of Arizona; without amendment (Rept. No. 1805). Referred to the Committee of the Whole House on the state of the Union.

REPORTS OF COMMITTEES ON PRIVATE BILLS AND RESOLUTIONS

Under clause 2 of Rule XIII,

Mr. PITTENGER: Committee on Claims. H. R. 13610. A bill for the relief of the Great American Indemnity Co. of New York; with amendment (Rept. No. 1803). Referred to the Committee of the Whole House.

Mr. McREYNOLDS: Committee on Foreign Affairs. S. 4553. An act for the relief of Elizabeth Millicent Trammell; without amendment (Rept. No. 1806). Referred to the Committee of the Whole House.

Mr. WARREN: Committee on Accounts. H. Res. 325. A resolution providing for the payment of six months' compensation to the widow of Sigismond G. Boernstein (Rept. No. 1804). Ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 3 of Rule XXII, public bills and resolutions were introduced and severally referred as follows:

By Mr. DICKSTEIN: A bill (H. R. 13810) to provide correction of status of aliens lawfully admitted without requirement of departure to foreign port; to the Committee on Immigration and Naturalization.

Also, a bill (H. R. 13811) to amend section 23 of the immigration act of February 5, 1917 (39 Stat. 874); to the Committee on Immigration and Naturalization.

Also, a bill (H. R. 13812) to amend the act of March 2, 1929, entitled "An act to supplement the naturalization laws, and for other purposes"; to the Committee on Immigration and Naturalization.

By Mr. DAVIS of Tennessee: A bill (H. R. 13813) to amend section 1 (a) of the act of March 2, 1929, entitled "An act to establish load lines for American vessels, and for other purposes"; to the Committee on Merchant Marine, Radio, and Fisheries.

By Mr. HOWARD (by request): A bill (H. R. 13814) to provide emergency financial assistance and Government direction and control necessary to adjust the unemployed to a system of commodity production and distribution needful to meet the effects of displacement of human labor through technical advances and other causes; to the Committee on Banking and Currency.

By Mr. WICKERSHAM: A bill (H. R. 13815) to authorize the incorporated town of Fairbanks, Alaska, to issue bonds in any sum not exceeding $150,000 for the purpose of constructing and equipping a public-school building in the town of Fairbanks, Alaska, and for other purposes; to the Committee on the Territories.

Also, a bill (H. R. 13816) to extend the benefits of the Adams Act, the Purnell Act, and the Capper-Ketcham Act to the Territory of Alaska, and for other purposes"; to the Committee on the Territories.

By Mrs. PRATT: A bill (H. R. 13817) to amend section 1 of the act entitled "An act to provide books for the adult blind," approved March 3, 1931; to the Committee on the Library.

By Mr. FULMER: A bill (H. R. 13818) to authorize the Reconstruction Finance Corporation to make loans to aid in financing projects for the construction of sewerage systems or sewage-disposal works; to the Committee on Banking and Currency.

By Mr. STEAGALL: A bill (H. R. 13819) to provide for the postponement of the payment of installments due on loans made by Federal land banks in certain cases, and to prohibit Federal land banks from accepting as security for loans any security other than mortgages on farm real estate and Federal land-bank stock; to the Committee on Banking and Currency.

By Mr. WILLIAMSON: A bill (H. R. 13820) to authorize an appropriation to carry out the provisions of the act of May 3, 1928 (45 Stat. L. 484); to the Committee on Indian Affairs.

By Mrs. ROGERS: A bill (H. R. 13821) to place deputy collectors of internal revenue in the classified civil service of the United States; to the Committee on Ways and Means.

By Mr. BRITTEN: Joint resolution (H. J. Res. 516) proposing an amendment to the Constitution of the United States relative to the eighteenth amendment; to the Committee on the Judiciary.

By Mr. EATON of Colorado: Joint resolution (H. J. Res. 517) authorizing the fixing of grazing fees on lands within national forests; to the Committee on the Public Lands.

By Mr. HART: Resolution (H. Res. 329) investigating farm lobbyists; to the Committee on Rules.

By Mr. CONNERY: Resolution (H. Res. 330) disapproving transfer of the Federal Board for Vocational Education; to the Committee on Expenditures in the Executive Departments.

PRIVATE BILLS AND RESOLUTIONS

Under clause 1 of Rule XXII, private bills and resolutions were introduced and severally referred as follows:

By Mr. BRAND of Ohio: A bill (H. R. 13822) for the relief of Ceylon Gowdy, otherwise known as Ceylon G. Andrews; to the Committee on Military Affairs.

Also, a bill (H. R. 13823) granting a pension to Jessie Bell McElroy; to the Committee on Invalid Pensions.

By Mr. CABLE: A bill (H. R. 13824) to correct the military record of and to issue an honorable discharge to Hubert Stopher; to the Committee on Naval Affairs.

By Mr. CELLER: A bill (H. R. 13825) to reimburse William McCool amount of pension payment erroneously deducted for period of hospital treatment; to the Committee on Claims.

By Mr. DOMINICK: A bill (H. R. 13826) granting an increase of pension to Mary A. Fox; to the Committee on Invalid Pensions.

Also, a bill (H. R. 13827) granting an increase of pension to Irene D. Arnold; to the Committee on Pensions.

By Mr. EVANS of California: A bill (H. R. 13828) granting a pension to Sarah Riley; to the Committee on Invalid Pensions.

Also, a bill (H. R. 13829) granting a pension to Ella Pierce; to the Committee on Invalid Pensions.

Also, a bill (H. R. 13830) granting an increase of pension to Eleanor Ady; to the Committee on Invalid Pensions.

By Mr. FREAR: A bill (H. R. 13831) granting an increase of pension to Anna M. Elkin; to the Committee on Pensions.

By Mr. HOCH: A bill (H. R. 13832) granting a pension to Mary A. Beck; to the Committee on Pensions.

By Mr. HOOPER: A bill (H. R. 13833) granting a pension to Sylvia Campbell; to the Committee on Invalid Pensions.

By Mr. McLEOD: A bill (H. R. 13834) for the relief of Edmund Wydick and Peter Skladzien; to the Committee on Claims.

By Mr. MEAD: A bill (H. R. 13835) for the relief of Ladislaus Stepniak; to the Committee on Military Affairs.

By Mr. MOBLEY: A bill (H. R. 13836) granting a pension to Rufus E. Davidson; to the Committee on Pensions.

Also, a bill (H. R. 13837) granting a pension to Mrs. Carl Rainey; to the Committee on Pensions.

By Mr. POLK: A bill (H. R. 13838) granting a pension to Ivy Pitzer; to the Committee on Invalid Pensions.

By Mr. RAMSPECK: A bill (H. R. 13839) granting a pension to Lilla Tarpley Bright; to the Committee on Pensions.

By Mrs. ROGERS: A bill (H. R. 13840) for the relief of Isidore A. Tetreault; to the Committee on Military Affairs.

By Mr. SHREVE: A bill (H. R. 13841) granting a pension to Edward F. Smith; to the Committee on Pensions.

Also, a bill (H. R. 13842) to correct the military record of Leon M. Martin; to the Committee on Military Affairs.

By Mr. STRONG of Kansas: A bill (H. R. 13843) granting a pension to Sarah E. May; to the Committee on Invalid Pensions.

By Mr. SWING: A bill (H. R. 13844) for the relief of John E. Little; to the Committee on Military Affairs.

Also, a bill (H. R. 13845) authorizing Paul H. Goss, immigration inspector; Roy B. Newport; Ralph V. Armstrong; and R. H. Wells, patrol inspectors in the Immigration Servive of the United States, to each accept a gold watch presented to them by the governor of the northern district of Lower California, Mexico; to the Committee on Foreign Affairs.

By Mr. WILLIAMSON: A bill (H. R. 13846) granting an increase of pension to Anna B. Guptil; to the Committee on Invalid Pensions.

PETITIONS, ETC.

Under clause 1 of Rule XXII, petitions and papers were laid on the Clerk's desk and referred as follows:

9110. By Mr. BACON: Petition of sundry citizens of Queens County, N. Y., in opposition to legalization of alcoholic liquors stronger than one-half of 1 per cent; to the Committee on the Judiciary.

9111. Also, petition of sundry residents of Suffolk County, N. Y., urging the elimination of the count of aliens for apportionment purposes; to the Committee on the Judiciary.

9112. By Mr. BOYLAN: Resolution adopted by the Maritime Association of the Port of New York, opposing the abolishment of the United States Employees Compensation Commission; to the Committee on Expenditures in the Executive Departments.

9113. Also, resolution adopted by Federal Chapter No. 6, Disabled Veterans of the World War, protesting against the abolishment of the United States Employment Service; to the Committee on Expenditures in the Executive Departments.

9114. By Mr. BURDICK: Petition of Alfred V. Russell, of Newport, and 31 other residents of Newport, R. I.; of L. H. Callan, of Bristol, and 37 other residents of Bristol, R. I.; of Henrietta A. Purday, of Providence, and 63 other residents of Rhode Island; and of Lillian C. Driscoll, of Providence, and 92 other residents of Rhode Island, protesting against any repeal or modification of existing legislation beneficial to Spanish War veterans, their widows, or dependents; to the Committee on Pensions.

9115. By Mr. CAMPBELL of Iowa: Petition of the Woman's Home Missionary Society of Ida Grove, Iowa, urging the enactment of a law providing for the establishment of a Federal motion-picture commission, etc.; to the Committee on Interstate and Foreign Commerce.

9116. Also, petition of the Woman's Home Missionary Society of Ida Grove, Iowa, urging prompt action on the ratification of the World Court protocols and support of same; to the Committee on Foreign Affairs.

9117. Also, petition of Emma F. Young, of Lake View, Sac County, Iowa, and nine other citizens of Sac County, Iowa, urging support of the stop-alien representation amendment to the United States Constitution; to the Committee on the Judiciary.

9118. By Mr. CANFIELD: Resolution of Mrs. W. Curtis Mahler and 17 other members of the Women's Home Missionary Society of Hamline Methodist Episcopal Chapel, of Lawrenceburg, Ind., asking that the American motion-picture industry be placed under a Federal motion-picture commission; to the Committee on Interstate and Foreign Commerce.

9119. By Mr. CARTER of California: Petition of Woman's Home Missionary Society of Oakland, Calif., urging the passage of Senate Resolution 170, regulating the moving-picture industry; to the Committee on Interstate and Foreign Commerce.

9120. By Mr. CONDON: Petition of Christopher Morley and 201 other citizens of Rhode Island, protesting against any repeal or modification of existing legislation beneficial to Spanish War veterans, their widows or dependents; to the Committee on World War Veterans' Legislation.

9121. Also, petition of John W. Wallace and 62 other citizens of Rhode Island, protesting against any repeal or modification of existing legislation beneficial to Spanish War veterans, their widows or dependents; to the Committee on World War Veterans' Legislation.

9122. By Mr. DEROUEN: Petition of First Christian Church of Lake Charles, La.; to the Committee on Ways and Means.

9123. Also, petition of First Church of the Nazarene of Lake Charles, La.; to the Committee on Ways and Means.

9124. By Mr. GARBER: Petition urging support of Senate bill 4646 and House bill 9891; to the Committee on Interstate and Foreign Commerce.

9125. By Mr. HAINES: Petition of citizens of Gettysburg and Glen Rock, Pa., urging the passage of the stop-alien representation amendment; to the Committee on the Judiciary.

9126. By Mr. HARLAN: Petition of Florence Erbaugh, R. R. 1, New Lebanon, Ohio, and 52 other citizens of the third Ohio district, urging passage of the stop-alien representation amendment to the United States Constitution; to the Committee on the Judiciary.

9127. By Mr. HOCH: Petition of various citizens of Marion and Peabody, Kans., urging support of the prohibition law and its enforcement; to the Committee on the Judiciary.

9128. By Mr. HOUSTON of Delaware: Petition of 44 women residents of Lewes, Del., favoring the stop-alien

representation amendment; to the Committee on the Judiciary.

9129. Also, petition of 19 residents of Harrington, Del., favoring the stop-alien representation amendment; to the Committee on the Judiciary.

9130. Also, petition of 52 residents of Laurel, Del., favoring the stop-alien representation amendment; to the Committee on the Judiciary.

9131. By Mr. LAMNECK: Petition of G. S. Pierce, John H. West, C. M. Odell, and numerous other citizens of the city of Columbus, Ohio, urging favorable action by Congress upon the stop-alien representation amendment to the United States Constitution to cut out the 6,280,000 aliens in this country, and count only American citizens, when making future apportionments for congressional districts; to the Committee on Immigration and Naturalization.

9132. By Mr. LARRABEE: Petition of Melvin H. King and others, urging support of the legislative program of the American Legion; the petition bears the signatures of 85 residents of Elwood, Ind., and the immediate vicinity; to the Committee on World War Veterans' Legislation.

9133. Also, petition of G. W. M. Granahun and others, urging support of the stop-alien representation amendment to the United States Constitution; the petition bears the signatures of 49 residents of Anderson, Ind., and the immediate vicinity; to the Committee on Ways and Means.

9134. By Mr. LINDSAY: Petition of Labor's National Committee for Modification of the Volstead Act, Washington, D. C., favoring passage of the Collier bill; to the Committee on Ways and Means.

9135. Also, petition of the Federal Grand Jury Association for the Southern District of New York, New York City, favoring modification of the Volstead Act; to the Committee on the Judiciary.

9136. By Mr. PERKINS: Petition of Women's Home Missionary Society, of Washington, N. J., favoring the enactment of Senate Resolution 170, providing for the establishment of a Federal motion-picture commission; to the Committee on Interstate and Foreign Commerce.

9137. Also, petition of Ladies' Auxiliary, Methodist Church, Ridgewood, N. J., submitted by Mrs. W. J. Tonkin and Miss I. L. Starkey, and containing the names of 24 members, favoring the enactment of Senate Resolution 170; to the Committee on Interstate and Foreign Commerce.

9138. Also, petition of 120 citizens of Bergen County, N. J., favoring an amendment to the Constitution of the United States to exclude aliens in the count for the apportionment of Representatives in Congress among the several States; to the Committee on the Judiciary.

9139. Also, petition of Women's Home Missionary Society of the Methodist Episcopal Church, Westwood, N. J., containing the names of 31 members, favoring the enactment of Senate Resolution 170, for the establishment of a Federal motion-picture commission; to the Committee on Interstate and Foreign Commerce.

9140. By Mr. RUDD: Petition of the Federal Grand Jury Association for the Southern District of New York, with reference to the repeal of the eighteenth amendment and the modification of the Volstead Act should be decided upon without unnecessary delay; to the Committee on the Judiciary.

9141. By Mr. SPARKS: Petition of citizens of Milo, Kans., opposing the repeal of the eighteenth amendment and an amendment for wine or beer, submitted by Mrs. E. W. Clark and signed by 29 others; to the Committee on the Judiciary.

9142. Also, petition of citizens of Belleville, Rydal, Concordia, Jamestown, and Munden, Kans., favoring the passage of the stop alien representation amendment to the United States Constitution, submitted by J. J. Eastman and Rose M. Schull and signed by 13 others; to the Committee on the Judiciary.

9143. By Mr. STEWART: Petition of 100 residents of the fifth congressional district, opposing every legislative act that would legalize alcoholic liquors stronger than one-half of 1 per cent; to the Committee on Ways and Means.

9144. By Mr. STRONG of Pennsylvania: Petition of citizens of Corsica, Pa., and vicinity, in favor of the proposed amendment to the Constitution of the United States, to exclude aliens and count only American citizens when making future apportionments for congressional districts; to the Committee on the Judiciary.

9145. By Mr. STULL: Petition of 96 citizens of Johnstown, Pa., favoring the stop-alien representation amendment to the United States Constitution; to the Committee on the Judiciary.

9146. Also, petition of the Seventh Ward Booster Club, of Johnstown, Pa., favoring the passage of the Moore immigration bill; to the Committee on the Judiciary.

9147. Also, petition of 25 citizens of East Conemaugh, Pa., favoring the submission of the stop-alien representation amendment to the United States Constitution; to the Committee on the Judiciary.

9148. Also, petition of Dale Council, No. 642, Junior Order United American Mechanics, of Johnstown, Pa., favoring the passage of the Moore immigration bill; to the Committee on the Judiciary.

9149. By Mr. SUTPHIN: Memorial of New Jersey State Chamber of Commerce, 605 Broad Street, Newark, N. J., resolving that there should be no advance payment of the so-called bonus; to the Committee on Ways and Means.

9150. By Mr. WASON: Petition of Edith B. Parker and 21 other residents of Peterboro and Hancock, N. H., urging the passage of the stop-alien representation amendment to the United States Constitution to cut out the 6,280,000 aliens in this country, and count only American citizens, when making future apportionments for congressional districts; to the Committee on the Judiciary.

9151. Also, petition of William H. Leith and six other residents of Lancaster, N. H., urging the passage of the stop-alien representation amendment to the United States Constitution to cut out the 6,280,000 aliens in this country, and count only American citizens, when making future apportionments for congressional districts; to the Committee on the Judiciary.

9152. Also, petition of Elon R. Gregg and 20 other residents of Sunapee, N. H., urging the passage of the stop-alien representation amendment to the United States Constitution to cut out the 6,280,000 aliens in this country, and count only American citizens, when making future apportionments for congressional districts; to the Committee on the Judiciary.

9153. By Mr. WATSON: Petition signed by residents of Trevose, Pa.; in opposition to including aliens when making future apportionments for congressional districts; to the Committee on the Judiciary.

9154. Also, petition signed by members of the Rangers Club of Montgomery County, Pa., in opposition to including aliens when making future apportionments for congressional districts; to the Committee on the Judiciary.

9155. By Mr. WEST: Petition of 107 members of the Evelyn Graham Woman's Christian Temperance Union, of Newark, Licking County, Ohio, urging passage of stop-alien representation amendment to the United States Constitution to cut out the 6,280,000 aliens in this country and count only American citizens when making future apportionments for congressional districts; to the Committee on the Judiciary.

9156. By the SPEAKER: Petition of American Temperance Society of Seventh-Day Adventists, protesting against the repeal of the eighteenth amendment; to the Committee on the Judiciary.

SENATE

WEDNESDAY, DECEMBER 21, 1932

(Legislative day of Thursday, December 8, 1932)

The Senate met at 12 o'clock meridian, on the expiration of the recess.

The VICE PRESIDENT. The Senate will receive a message from the President of the United States.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the Senate by Mr. Latta, one of his secretaries.